

RELATIONS OF MUSLIMS AND NON-MUSLIMS

SHAYKH-UL-ISLAM
DR MUHAMMAD TAHIR-UL-QADRI

Preface by
Dr Kemal Argon

Minhaj Publications India Forum

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of God, Most Compassionate, Ever-Merciful

SAYING OF GOD ﷻ

﴿مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا﴾

﴿Whoever kills a person [unjustly], except as a punishment for murder or [as a prescribed punishment for spreading] disorder in the land, it is as if he killed all of humanity.﴾

[Qur'ān 5:32]

SAYING OF THE PROPHET ﷺ

عَنْ أَبِي بَكْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «إِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ عَلَيْكُمْ حَرَامٌ، كَحُرْمَةِ يَوْمِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا، إِلَى يَوْمٍ تَلْقَوْنَ رَبَّكُمْ»

Abū Bakra رَضِيَ اللَّهُ عَنْهُ reported that the Prophet ﷺ said, “Indeed, your blood and your property and your honour are inviolable, like the inviolability of this day of yours and this month of yours and this land of yours until the day you meet your Lord”.

[al-Bukhārī and Muslim]



SHAYKH-UL-ISLAM


DR MUHAMMAD TAHIR-UL-QADRI

Shaykh-ul-Islam Dr Muhammad Tahir-ul-Qadri was born in 1951 in the city of Jhang, Pakistan, hailing from a family of Islamic saints, scholars and teachers. His formal religious education was initiated in Medina at the age of 12 in Madrasa al-‘Ulūm al-Shar‘iyya, a traditional school situated in the blessed house of the Companion of the Prophet Muhammad ﷺ, Abū Ayyūb al-Anṣārī. He completed the traditional studies of classical and Arabic sciences under the tutelage of his father and other eminent scholars of the time. He continued to travel around the Islamic world in the pursuit of sacred knowledge, and studied under many famous scholars of Mecca, Medina, Syria, Baghdad, Lebanon, the Maghreb, India and Pakistan, and received around five hundred authorities and chains of transmission from them in hadith and classical Islamic and spiritual sciences. Amongst them is an unprecedented, unique and highly honoured chain of authority which connects him, through four teachers, to al-Shaykh ‘Abd al-Razzāq, the son of al-Shaykh ‘Abd al-Qādir al-Jīlānī al-Ḥasanī al-Ḥusaynī (of Baghdad), al-Shaykh al-Akbar Muḥyī al-Dīn b. ‘Arabī [(the author of *al-Futūḥāt al-Makkiyya*) (Damascus)] and Imam Ibn ‘Aṣqalānī, the great hadith authority of Egypt. Through another chain he is linked to Imam Yūsuf b. Ismā‘īl al-Nabhānī directly via only one teacher. His chains of transmission are published in two of his *shaḥṭs* (detailed lists): *al-Jawāhir al-Bāhira fī al-Asānīd al-Ṭāhira* and *al-Subul al-Wahabiyya fī al-Asānīd al-Dhahabiyya*.

In the academic sphere, Dr Qadri received a First Class Honours Degree from the University of the Punjab in 1970. After earning his MA in Islamic studies with University Gold Medal in 1972 and achieving his LLB in 1974, Dr Qadri began to practise law in the district courts of Jhang. He moved to Lahore in 1978 and joined the University of

the Punjab as a lecturer in law and completed his doctorate in Islamic Law. He was later appointed as a professor of Islamic Law and was head of the department of Islamic legislation for LL.M.

Dr Qadri was also a jurist advisor to the Federal Shariat Court and Appellate Shariah Bench of the Supreme Court of Pakistan and advisor on the development of Islamic Curricula to the Federal Ministry of Education. Within a short span of time, Dr Qadri emerged as one of the Pakistan's leading Islamic jurists and scholars and one of the world's most renowned and leading authorities on Islam. A prolific author, researcher and orator, Dr Qadri has written around one thousand books, of which more than four hundred and fifty have been published, and has delivered over six thousand lectures (in Urdu, English and Arabic) on a wide range of subjects.

In 2010, Shaykh-ul-Islam Dr Muhammad Tahir-ul-Qadri issued his historic and world-renowned fatwa on the critical matter of suicide bombings and terrorism carried out in the name of Islam. It has been regarded as a significant and historic step, the first time that such an explicit and unequivocal decree against the perpetrators of terror has been broadcast so widely. The original fatwa was written in Urdu, and amounts to 600 pages of research and references from the Qur'ān, hadith, the opinions of the Companions , and the widely accepted classical texts of Islamic scholarship. This historic work has been published in English, Indonesian and Hindi, while translation into Arabic, Norwegian, Danish, Spanish, French and other major languages is also in process. The Islamic Research Academy of Jamia al-Azhar Egypt wrote a detailed description of the fatwa and verified its contents. It gained worldwide media attention and acclaim as an indispensable tool in the intellectual and ideological struggle against violent extremism.

Also Dr Qadri is the founder and head of Minhaj-ul-Quran International (MQI), an organisation with branches and centres in more than ninety countries around the globe; he is the chairman of the Board of Governors of Minhaj University Lahore, which is chartered by the Government of Pakistan; he is the founder of Minhaj Education Society, which has established more than 600 schools and colleges in Pakistan; and he is the chairman of Minhaj Welfare Foundation,

an organization involved in humanitarian and social welfare activities globally.

Dr Qadri has spent his life, and especially the last decade, in an indefatigable effort to counter religious extremism and promote peace and harmony between communities. His painstaking research into the Qur'ān, hadith and classical Islamic authorities has resulted in landmark works, some published, and others soon to be published, demonstrating Islam as a religion that not only safeguards human rights, but promotes peace, tolerance and socioeconomic progress. He has travelled extensively to lecture at the invitation of government and non-government agencies, and has organised and took part in international conferences in order to promote peace. He has arrayed spiritual and educational training programmes across the Western world with a focus on addressing the roots of religious extremism. He is recognised for his commitment to interfaith dialogue, with over 12,000 people attending his Peace for Humanity Conference in 2011, probably the largest interfaith gathering ever held in the UK, and which announced the London Declaration, a charter for world peace, signed online by a quarter of a million people. He has been politically active in his native Pakistan, organising massive pro-democracy and anti-corruption demonstrations. When not travelling, he is based in Canada, busy in his research activities and producing vital works of Islamic scholarship relevant to Muslims in this day and age.

TRANSLITERATION KEY

ا/آ/إ	ā	ظ	z
ب	b	ع	ʿ
ت	t	غ	gh
ث	th	ف	f
ج	j	ق	q
ح	ḥ	ك	k
خ	kh	ل	l
د	d	م	m
ذ	dh	ن	n
ر	r	ه	h
ز	z	و	w/ū
س	s	ي	y/ī
ش	sh	ة	a
ص	ṣ	ء	ʾ
ض	ḍ	أ	a
ط	ṭ	إ	i

FORMULAIC ARABIC EXPRESSIONS

❧ (*Subḥānahū wa taʿālā*) an invocation to describe the Glory of Almighty Allah: 'the Exalted and Sublime'

❧ (*Salla-llāhu ʿalayhi wa ālihī wa sallam*) an invocation of God's blessings and peace upon the Prophet Muhammad and his family: 'God's blessings and peace be upon him and his family'

❧ (*ʿAlayhis-salām*) an invocation of God's blessings and peace upon a Prophet or an angel: 'May peace be upon him'

❧ (*ʿAlayhas-salām*) an invocation of God's blessings and peace upon a Prophet's mother, wife, daughter and other pious woman: 'May peace be upon her'

❧ (*ʿAlayhimas-salām*) an invocation of God's blessings and peace upon two Prophets or two angels: 'May peace be upon both of them'

❧ (*ʿAlayhimus-salām*) an invocation of God's blessings and peace upon three or more Prophets: 'May peace be upon them'

❧ (*Raḍiya-llāhu ʿanhū*) an invocation of God's pleasure with a male Companion of the Prophet: 'May God be pleased with him'

❧ (*Raḍiya-llāhu ʿanhā*) an invocation of God's pleasure with a female Companion of the Prophet: 'May God be pleased with her'

❧ (*Raḍiya-llāhu ʿanhumā*) an invocation of God's pleasure with two Companions of the Prophet: 'May God be pleased with both of them'

❧ (*Raḍiya-llāhu ʿanhum*) an invocation of God's pleasure with more than two Companions of the Prophet: 'May God be pleased with them'

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PREFACE

This new work by Dr Muhammad Tahir-ul-Qadri comes at a very important time in relations between Muslims and non-Muslims and is an important text for many different concerns and interests, Muslim and non-Muslim. Muslim and non-Muslim scholars, leaders and activists will find within its contents strong arguments and ample original sources and citations, that promote bridge-building, peace and harmony between communities. These sources and citations can be useful in formal education about Islam as well as in less formal discourses about Muslims' relations with non-Muslims.

This book comes in the wake of Dr Qadri's earlier critical fatwa of 2010, the "Fatwa Against Terrorism and Suicide Bombings." Whereas the fatwa from 2010 was an important and convincing work of Islamic scholarship, that was extensively researched and evidenced, this later book stands as an important sequel to the earlier work, providing a different focus with additional and complementary information not found in the 2010 text's contents.

The 2010 fatwa was and is strategically very important on a number of points. The fatwa provides a scholarly standard for Muslims and non-Muslims wondering what is representative of a balanced and moderate Muslim perspective for comparison. The 2010 fatwa was also highly relevant for guiding a younger generation of Muslims away from extreme and unbalanced perspectives and ideologies. While both of Dr Qadri's works are important, this later text has another focus, dealing with questions and concerns about long-term and sustained good and peaceful relations between Muslims and non-Muslims. These long-term and sustained good peaceful relations could be between Muslims and non-Muslim minorities either in Muslim majority countries or between minority Muslims and others in non-Muslim societies. While both works are relevant to both these above

situations, the latter work provides content with a focus shifted to a concern for sustained, long-term good relations.

Dr Qadri's later work redirects our attention to a humanitarian interpretation of the religion that guides to bridge-building and good, peaceful relations between Muslims and non-Muslims. This is done in two parts, the first part being about more individual relations and community relations and the second part being about "categories of abodes."

The first part provides ample evidences for very important aspects of individual and community relations. Non-Muslims in their treatment by Muslims, as a rule, are to be secure in their lives and in their belongings. Evidences are presented showing that women, children, elderly and priests are also protected as are diplomats, farmers, traders and non-combatants. Non-Muslims have freedom of faith and beliefs and the Muslims have been ordered to protect the places of worship belonging to the non-Muslims, despite religious differences. In addition, there is to be justice in all judgments and rulings for non-Muslims. Muslims are to treat non-Muslims with piety and excellent social morality. Muslims are to be non-revengeful, forbearing and tolerant towards non-Muslims. They are to keep and fulfill their agreements and covenants with non-Muslims. Dr Qadri provides evidences that there should be support for elderly, infirm, and feeble non-Muslims. Ample evidences are provided for good treatment of non-Muslims by Muslims.

The second part of the book, on categories of abodes, makes this work one of geopolitical relevance. Dr Qadri provides evidences and nuanced interpretations of the concepts, the "Abode of Islam, the Abode of Reconciliation, the Abode of Treaty, the Abode of Peace, and the Abode of War." Clear definitions of these categories are offered, along with how different countries can and cannot be classified in each of these categories.

This section raises many interesting points, relevant to long-term sustained good relations. Amongst these many points, we can take as an example the assertion that many non-Muslim states are in the Abode of Treaty because of membership in the United Nations. (see pages 161-162). In addition, on page 162 Dr Qadri states,

“We miserably lack Islamic knowledge...the great jurists do not feel any hesitation in calling a non-Muslim state an Abode of Islam on very insignificant conditions...on the contrary, a small number of terrorists, owing to the dearth of wisdom, intellect and insight into the Islamic law issue verdicts of bloodshed and terrorism in the same countries.”

This statement encapsulates the wisdom, which this whole work points in the direction of, away from wayward drift, extremism and unbalance back to knowledge and benevolent relations.

In contrast to the arguments made by Dr Qadri, one may note that a clearer focus of arguments and their evidences on the humanitarian core of Islam is too often obscured by attention being focused on extreme and unbalanced interpretation and opinions, Muslim and non-Muslim. Clearly education and a pertinent discourse about Islam is necessary. Muslim and non-Muslim critics of the Muslim community and of certain Islamic scholarship might continue to point to extant examples of Islamic scholarship and activism that are extreme and non-representative of the greater historical tradition. In addition, individual Muslims looking for guidance may be confused by Islamic activism which has drifted away to some extent from the mainstream tradition, offering perspectives which may be mildly inaccurate or even reactionary and unbalanced. In regard to any pertinent discourse about these concerns, and to aid in individuals' quest for answers in this regard, Dr Muhammad Tahir ul-Qadri's new book presents a high standard of Islamic scholarship for different audiences, Muslim and non-Muslim. Members of these different communities may benefit by comparing their own viewpoints, perspectives, understandings, and opinions with this one important example of a high scholarly standard.

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PART I



الْبَابُ الْأَوَّلُ

قَتْلُ نَفْسِ الْإِنْسَانِ مِنْ أَعْظَمِ الْكَبَائِرِ

CHAPTER ONE

TO MURDER A HUMAN BEING IS TO
COMMIT ONE OF THE WORST OF THE
MAJOR SINS

QUR'ĀN

﴿مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا﴾

﴿Whoever killed a person (unjustly), except as a punishment for murder or for (spreading) disorder in the land, it would be as if he killed all the people (of society); and whoever (saved him from unjust murder and) made him survive, it would be as if he saved the lives of all the people (of society, i.e., he rescued the collective system of human life).﴾¹

HADITH

١/١. عَنْ أَبِي بَكْرَةَ رضي الله عنه قَالَ: خَطَبَنَا النَّبِيُّ ﷺ يَوْمَ النَّحْرِ. قَالَ: إِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ عَلَيْكُمْ حَرَامٌ، كَحُرْمَةِ يَوْمِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا، إِلَى يَوْمٍ تَلْقَوْنَ رَبَّكُمْ. مُتَّفَقٌ عَلَيْهِ.

1/1. Abū Bakra رضي الله عنه related that the Prophet ﷺ addressed them on the Day of Sacrifice and said:

“Indeed, your blood, your property and your honour are inviolable, like the inviolability of this day of yours and this month of yours, (as fixed) in this land of yours, until the day you meet your Lord.”²

¹ Qur’ān 5:32.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-Ḥajj* [The Book of Pilgrimage], chapter: “The sermon during the days of Mina,” 2:620 §1654. •Muslim in *al-*

Agreed upon by al-Bukhārī and Muslim.

٢/٢. عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رضي الله عنه: إِنَّ مِنْ وَرَطَاتِ الْأُمُورِ الَّتِي لَا تَخْرُجُ لِمَنْ أَوْقَعَ
نَفْسَهُ فِيهَا، سَفَكَ الدَّمَ الْحَرَامَ بِغَيْرِ حِلِّهِ.
رَوَاهُ الْبُخَارِيُّ وَالْبَيْهَقِيُّ.

2/2. ‘Abd Allāh b. ‘Umar رضي الله عنه said:

“Of the fatal matters—those in which one’s (lower) self is entangled and finds no slit from which to escape—is the act of shedding inviolable blood.”¹

Reported by al-Bukhārī and al-Bayhaqī.

٣/٣. عَنْ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: أَوَّلُ مَا يُقْضَى بَيْنَ النَّاسِ يَوْمَ الْقِيَامَةِ
فِي الدِّمَاءِ.
مُتَّفَقٌ عَلَيْهِ.

3/3. ‘Abd Allāh b. Mas‘ūd رضي الله عنه related that Allah’s Messenger ﷺ said:

“The first issue that will be judged between people on the Day of Resurrection is that of blood [i.e., murder].”²

Ṣaḥīḥ: Kitāb al-qasāma wa al-muḥāribīn wa al-qīṣāṣ wa al-diyāt [The Book of Apportioning Wealth, Warmongers, Legal Retribution and Bloodwit], chapter: “The inviolability of a believer’s blood, honour and property,” 3:1305–1306 §1679.

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-diyāt* [The Book of Blood Money], chapter: “Whoever Kills a Believer Intentionally, His Recompense is Hell,” 6:2517 §6470. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:21 §15637.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-diyāt* [The Book of Blood Money], chapter: “Whoever Kills a Believer intentionally,” 6:2517 §6471. •Muslim in *al-Ṣaḥīḥ: Kitāb al-qasāma wa al-muḥāribīn wa al-qīṣāṣ wa al-diyāt* [The Book of Taking an Oath, Warmongers, Legal Retribution and Bloodwit], chapter: “The (cases of) Bloodshed would be Decided first of all on the Day of Resurrection,” 3:1304 §1678. •Aḥmad b. Ḥanbal in *al-Musnad*, 1:442 §4213. •al-Tirmidhī in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: “The Legal Ruling Concerning Blood,” 4:17 §1397. •al-

Agreed upon by al-Bukhārī and Muslim.

٤ / ٤. عَنْ الْبَرَاءِ بْنِ عَازِبٍ رضي الله عنه قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: لَزَوَالِ الدُّنْيَا جَمِيعًا أَهْوَنُ عِنْدَ اللَّهِ مِنْ سَفْكِ دَمٍ بِغَيْرِ حَقٍّ.

رَوَاهُ ابْنُ أَبِي الدُّنْيَا وَابْنُ أَبِي عَاصِمٍ وَابْنُ أَبِي حَتْمٍ.

4/4. Al-Barā' b. 'Āzib رضي الله عنه reported that Allah's Messenger ﷺ said: "Certainly, in the estimation of Allah, the obliteration of the whole world is lesser than unjustly shedding the blood of a human being."¹

Reported by Ibn Abī Dunya, Ibn Abī 'Āṣim and al-Bayhaqī.

SAYING OF IMAM ABŪ MANṢŪR AL-MĀTURĪDĪ

قَالَ الْإِمَامُ أَبُو مَنْصُورٍ الْمَاطُرِيدِيُّ فِي تَفْسِيرِ هَذِهِ الْآيَةِ ﴿مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا﴾.

مَنْ اسْتَحَلَّ قَتْلَ نَفْسٍ حَرَّمَ اللَّهُ قَتْلَهَا بِغَيْرِ حَقٍّ، فَكَأَنَّمَا اسْتَحَلَّ قَتْلَ النَّاسِ جَمِيعًا، لِأَنَّهُ يَكْفُرُ بِاسْتِحْلَالِهِ قَتْلَ نَفْسٍ مُحَرَّمٍ قَتْلَهَا، فَكَانَ كَاسْتِحْلَالِ قَتْلِ النَّاسِ جَمِيعًا، لِأَنَّ مَنْ كَفَرَ بِآيَةٍ مِّنْ كِتَابِ اللَّهِ يَصِيرُ كَافِرًا بِالْكُلِّ . . .

وَيَحْتَمِلُ الْآيَةُ وَجْهًا آخَرَ، وَهُوَ مَا قِيلَ: إِنَّهُ يَجِبُ عَلَيْهِ مِنَ الْقَتْلِ مِثْلُ

Nasā'ī in *al-Sunan: Kitāb taḥrīm al-dam* [The Book on the Prohibition of Bloodshed], chapter: "The Sanctity of Blood," 7:83 §3994. • Ibn Mājah in *al-Sunan: Kitāb al-Diyāt* [The Book of Blood Money], chapter: "The Gravity of unjustly Killing a Muslim," 2:873 §2615. • Ibn Ḥibbān in *al-Sahīḥ*, 16:339 §7344. • Abū Ya'lā in *al-Musnad*, 9:35 §5099. • Ibn al-Mubārak in *al-Musnad*, 1:59 §97.

¹ Set forth by • Ibn Abī al-Dunyā in *al-Ahwāl*, p. 190 §183. • Ibn Abī 'Āṣim in *al-Diyāt*, p. 2 §2. • al-Bayhaqī in *Shu'ab al-īmān*, 4:345 §5344.

مَا أَنَّهُ لَوْ قَتَلَ النَّاسَ جَمِيعًا.

وَوَجْهٌ آخَرُ: أَنَّهُ يُلْزَمُ النَّاسَ جَمِيعًا دَفْعُ ذَلِكَ عَنْ نَفْسِهِ وَمُعُونَتُهُ لَهُ،
فَإِذَا قَتَلَهَا أَوْ سَعَى عَلَيْهَا بِالْفَسَادِ، فَكَأَنَّمَا سَعَى بِذَلِكَ عَلَى النَّاسِ كَافَّةً.
... وَهَذَا يَدُلُّ أَنَّ الْآيَةَ نَزَلَتْ بِالْحُكْمِ فِي أَهْلِ الْكُفْرِ وَأَهْلِ الْإِسْلَامِ
جَمِيعًا، إِذَا سَعَوْا فِي الْأَرْضِ بِالْفَسَادِ.

Imam Abū Maṣṣūr al-Māturīdī (one of the Imams of *Ahl al-Sunna* in theology) has interpreted the verse: *Whoever killed a person (unjustly), except as a punishment for murder or for (spreading) disorder in the land, it would be as if he killed all the people (of society).*¹

Declaring that murder can be an act of disbelief, he wrote:

Whoever declares lawful the killing of a person whose killing has been forbidden by Allah (except when there is a valid reason), it is as if he considers it lawful to kill all of humanity. This is because he disbelieves by his declaring lawful the killing of one whose killing is unlawful, which is akin to declaring lawful the killing of entire humanity because the one who disbelieves in one verse from God's Book disbelieves in the whole of it.

This verse contains another possible angle of interpretation, and it is as has been said: His murder of one person entails the same burden [in the Hereafter] as if he killed the entire humanity. Another possible angle of interpretation is that it is necessary for everyone to make a collective effort to help and save the peaceful person from murder. Therefore, when the murderer kills that harmless soul or attempts to harm it, it is as if he is attempting to do that to everyone... This indicates that the verse has been revealed as a ruling both for the people of disbelief and the people of Islam together, if they sow corruption in the earth.²

¹ Qur'ān 5:32.

² •Abū Maṣṣūr al-Māturīdī, *Ta'wilāt Ahl al-Sunna*, 3:501.

THE EXEGETES' VIEWS ON THE GRAVITY OF KILLING A HUMAN BEING

قَالَ الْعَلَامَةُ أَبُو حَفْصٍ الْحَنْبَلِيُّ فِي تَفْسِيرِهِ «اللُّبَابِ فِي عُلُومِ
الْكِتَابِ» فِي تَفْسِيرِ الْآيَةِ «فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا» بِأَن قَتَلَ إِنْسَانًا
وَاحِدًا قَتَلَ جَمِيعَ النَّاسِ:

١. قَالَ مُجَاهِدٌ: مَنْ قَتَلَ نَفْسًا مُحَرَّمَةً يَصِلُ النَّارَ بِقَتْلِهَا، كَمَا يَصِلَاهَا لَوْ
قَتَلَ النَّاسَ جَمِيعًا.

٢. وَقَالَ قَتَادَةُ: أَعْظَمَ اللَّهُ أَجْرَهَا وَعَظَّمَ وَزْرَهَا، مَعْنَاهُ: مَنْ اسْتَحَلَّ قَتَلَ
مُسْلِمٍ بِغَيْرِ حَقِّهِ، فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا.

٣. وَقَالَ الْحَسَنُ: «فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا»، يَعْنِي: أَنَّهُ يَجِبُ عَلَيْهِ
مِنَ الْقِصَاصِ بِقَتْلِهَا، مِثْلَ الَّذِي يَجِبُ عَلَيْهِ لَوْ قَتَلَ النَّاسَ جَمِيعًا.

In his exegesis *al-Lubāb fī 'ulūm al-Kitāb*, Abū Ḥaṣṣ al-Hanbalī interpreted the Qur'ānic verse «as if he killed all the people (of society)»¹ and declared that the murder of one individual is comparable to the killing of all of humanity. He quoted the sayings of different Imams in support of this position.

1. Mujāhid said: "If someone kills a soul unjustly, he will go to Hell due to that murder, just as he would have gone to Hell if he had killed the whole of humanity."
2. Qatāda said: "Allah has made the reward for saving it [a life] tremendous and made the chastisement of sin [for taking a life unjustly] tremendous, too. This means that whoever declares it lawful for himself to kill a Muslim, it is as if he killed all humanity."
3. Interpreting the same verse, al-Ḥasan al-Baṣrī said: "This

¹ Qur'ān 5:32.

means that he is liable to legal retribution [*qiṣās*] for killing it [the harmless soul] as would be the person who killed all of humanity.”¹

قَالَ ابْنُ كَثِيرٍ فِي تَفْسِيرِ هَذِهِ الْآيَةِ: ﴿وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِدًا فَجَزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا﴾: هَذَا تَهْدِيدٌ شَدِيدٌ وَوَعِيدٌ أَكِيدٌ لِمَنْ تَعَاطَى هَذَا الذَّنْبَ الْعَظِيمَ، الَّذِي هُوَ مَقْرُونٌ بِالشَّرْكَ بِاللَّهِ فِي غَيْرِ مَا آيَةٌ فِي كِتَابِ اللَّهِ، حَيْثُ يَقُولُ سُبْحَانَهُ فِي سُورَةِ الْفُرْقَانِ: ﴿وَالَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا آخَرَ وَلَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَلَا يَزْنُونَ﴾. وَقَالَ تَعَالَى: ﴿قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّي عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا﴾ إِلَى أَنْ قَالَ: ﴿وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَلَّيْتُ بِهِ لَعَلَّكُمْ تَعْقِلُونَ﴾.

Ibn Kathīr wrote in the details of this verse: *But he who kills a Muslim deliberately, his sentence will be Hell wherein will he abide for ages. Allah will afflict him with His wrath and will cast His curse on him. And He has prepared for him a dreadful torment.*²

This is a stern warning and emphatic Divine threat to those who perpetrate this grievous sin that is connected—in more than one verse in Allah’s Book—with the taking of partners in worship along with Allah. Allah has revealed in *sūra al-Furqān*: *And these are the people who do not worship any other god apart from Allah, nor do they kill the soul whose killing without any lawful cause Allah has forbidden, nor do they commit adultery*.³ And Allah has also revealed:

¹ •Abū afṣ al- anbalī, *al-Lubāb fī ‘ulūm al-Kitāb*, 7:301.

² Qur’ān 4:93.

³ Ibid., 25:68.

«Say: 'Come, I will recite to you those things which your Lord has forbidden to you: Do not set up anything as a partner with Him; be morally excellent with parents; and do not kill your children owing to poverty. We alone give you sustenance and (will provide for) them as well. And do not draw near to shameful deeds (whether) open or hidden. And do not kill the soul whose (killing) Allah has forbidden, except when it is rightfully due (according to law in self-defence against disruption and whilst combating terrorism). It is these (injunctions) He has enjoined upon you so that you may apply reason.'¹ ﴿٢﴾²

¹ Ibid., 6:151.

² •Ibn Kathīr, *Tafsīr al-Qur'ān al-ʿAzīm*, 1:535.

الْبَابُ الثَّانِي

حِفْظُ نَفُوسٍ غَيْرِ الْمُسْلِمِينَ وَأَعْرَاضِهِمْ وَأَمْوَالِهِمْ
مِنْ أَعْظَمِ الْفَرَائِضِ

CHAPTER TWO

THE PROTECTION OF LIFE, PROPERTY
AND HONOUR OF NON-MUSLIMS IS
AMONGST THE SUPREME DUTIES OF
ISLAM

QUR'AN

١. ﴿يَأْتِيهَا الَّذِينَ ءَامَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ﴾

1. ﴿O believers! Retribution (the law of equality in punishment) is prescribed for you in the case of those who are unjustly slain.﴾¹

٢. ﴿وَلَكُمْ فِي الْقِصَاصِ حَيَوةٌ يَا أُولِيَ الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ﴾

2. ﴿And there is a (guarantee of) life for you in retribution (i.e., vengeance of murder), O wise people, so that you may guard (against bloodshed and destruction).﴾²

٣. ﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِيَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ﴾

3. ﴿And do not eat up one another's wealth amongst yourselves through injustice, nor take wealth to the authorities (as a bribe) so that, this way, you may (also) swallow a portion of others' wealth unfairly, whilst you are aware (that this is a sin).﴾³

٤. ﴿وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ﴾

4. ﴿In that (the Torah) We had prescribed for them: a life for a life, an eye for an eye, a nose for a nose, an ear for an

¹ Qur'an 2:178.

² Ibid., 2:179.

³ Ibid., 2:188.

ear, and a tooth for a tooth, and in the case of injuries (too) there is a requital. ﴿¹

٥. ﴿فَلَمَّا نَسُوا مَا ذُكِّرُوا بِهِ أَجَئْنَا الَّذِينَ يَنْهَوْنَ عَنِ السُّوءِ وَأَخَذْنَا الَّذِينَ ظَلَمُوا بِعَذَابٍ بَئِيسٍ بِمَا كَانُوا يَفْسُقُونَ﴾

5. ﴿Then, when they forgot (all) they had been advised, We delivered those who were engaged in forbidding evil (i.e., performing the duty of preaching don'ts), and seized (the rest of) the people who committed injustice (actively or passively) with a very harsh punishment because they were disobeying.﴾²

٦. ﴿وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيَّهِ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا﴾

6. ﴿And do not kill any soul whose (killing) Allah has declared unlawful unless (killing him) is just (according to the law and decree of the court). But whoever is killed unjustly, We have indeed given his heir the right (of retribution according to the legal procedure), but he too must not exceed the limits in (retributive) killing. He is indeed helped (by Allah. The responsibility of his legal help and support will be on the government.)﴾³

HADITH

١/٥. عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: مَنْ قَتَلَ مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ، وَإِنْ رِيحَهَا تَوَجَّدَ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا.
رَوَاهُ الْبُخَارِيُّ وَابْنُ مَاجَهَ وَالْبَزَّازُ.

¹ Ibid., 5:45.

² Ibid., 7:165.

³ Ibid., 17:33.

5/1. 'Abd Allāh b. 'Amr رضي الله عنه related that the Prophet ﷺ said:

"Anyone who kills a non-Muslim under treaty [*mu'āhad*] will not smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of forty years."¹

Reported by al-Bukhārī, Ibn Mājah and al-Bazzār.

٢ / ٦ . وَفِي رِوَايَةٍ عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ قَتَلَ قَتِيلًا مِنْ أَهْلِ الذِّمَّةِ لَمْ يَجِدْ رِيحَ الْجَنَّةِ، وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا.

رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَاللَّفْظُ لَهُ، وَالْبَزَّازُ وَابْنُ الْجَارُودِ وَالْحَاكِمُ
وَالْبَيْهَقِيُّ وَذَكَرَهُ الْمُنْذِرِيُّ فِي التَّرْغِيبِ وَالتَّرْهِيْبِ. وَقَالَ الْحَاكِمُ: هَذَا
حَدِيثٌ صَحِيحٌ.

6/2. 'Abd Allāh b. 'Amr رضي الله عنه related that Allah's Messenger ﷺ said:

"Anyone who kills a non-Muslim citizen will not smell the fragrance of Paradise, while its fragrance can be smelt at a distance of forty years."²

Reported by Aḥmad, al-Nasā'ī (the wording is his), al-Bazzār, Ibn al-Jārūd, al-Ḥākim, al-Bayhaqī and cited by al-Mundhirī in *al-Tarḡīb wa al-tarḥīb*. According to al-Ḥākim: "This is an authentic tradition."

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jizya* [The Book of Annual Security Tax for Non-Muslims Living in an Islamic State], chapter: "The Sin of Someone Who Kills a Non-Muslim Citizen without his having Committed a Crime," 3:1155 §2995; and in *Kitāb al-Diyāt* [The Book of Blood Money], chapter: "The Sin Of Someone Who Kills a Soul Without His Having Committed A Crime," 6:2533 §6516. •Ibn Mājah in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: "Someone Who Kills a Non-Muslim Citizen," 2:896 §2686. •al-Bazzār in *al-Musnad*, 6:368 §2383.

² Set forth by •al-Nasā'ī in *al-Sunan: Kitāb al-qasāma* [The Book of Taking an Oath], chapter: "The Gravity of Killing a Non-Muslim Citizen," 8:25 §4750; and in *al-Sunan al-Kubrā*, 4:221 §6952. •Aḥmad b. Ḥanbal in *al-Musnad*, 2:186 §6745. •al-Bazzār in *al-Musnad*, 6:361 §3273. •al-Ḥākim in *al-Mustadrak*, 2:137 §2580. •Ibn al-Jārūd in *al-Muntaqā*, 1:212 §834. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:133 §16260.

٣/٧. وَفِي رِوَايَةِ أَبِي هُرَيْرَةَ رضي الله عنه عَنِ النَّبِيِّ ﷺ قَالَ: أَلَا مَنْ قَتَلَ نَفْسًا مُعَاهِدًا لَهُ دِمَّةٌ
 اللَّهُ وَدِمَّةُ رَسُولِهِ، فَقَدْ أَخْفَرَ بِدِمَّةِ اللَّهِ، فَلَا يُرِحُ رَائِحَةَ الْجَنَّةِ، وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ
 مَسِيرَةِ سَبْعِينَ خَرِيفًا.

رَوَاهُ التِّرْمِذِيُّ وَابْنُ مَاجَهَ وَأَبُو يَعْلَى وَالْحَاكِمُ وَالْبَيْهَقِيُّ. وَقَالَ
 التِّرْمِذِيُّ: حَدِيثُ أَبِي هُرَيْرَةَ رضي الله عنه حَدِيثٌ حَسَنٌ صَحِيحٌ.

7/3. Abū Hurayra رضي الله عنه related that the Prophet ﷺ said:

“Listen! Anyone who kills a non-Muslim citizen who is under the protection of Allah and His Messenger violates the protection of Allah; he will not smell the fragrance of Paradise, while its fragrance reaches out as far as a distance of seventy years.”¹

Reported by al-Tirmidhī, Ibn Mājah, Abū Ya‘lā, al-ākim and al-Bayhaqī. According to al-Tirmidhī: “The tradition reported by Abū Hurayra رضي الله عنه is an authentic tradition.”

٤/٨. وَفِي رِوَايَةِ الْقَاسِمِ بْنِ مُحْيِمِرَةَ عَنْ رَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ أَنَّ رَسُولَ اللَّهِ
ﷺ قَالَ: مَنْ قَتَلَ رَجُلًا مِنْ أَهْلِ الدِّمَّةِ لَمْ يَجِدْ رِيحَ الْجَنَّةِ وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ
 مَسِيرَةِ سَبْعِينَ عَامًا.

رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَاللَّفْظُ لَهُ.

8/4. Qāsim b. Mukhaymira reported that he heard from a noble Companion of the Messenger of Allah ﷺ, who said:

“Anyone who kills a non-Muslim citizen under protection will not smell the fragrance of Paradise, even though its fragrance can be

¹ Set forth by •al-Tirmidhī in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: “What has Come to us Concerning Someone Who Kills a Non-Muslim Citizen,” 4:20 §1403. •Ibn Mājah in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: “Someone Who Kills a Non-Muslim Citizen,” 2:896 §2687. •Abū Ya‘lā in *al-Musnad*, 11:335 §6452. •al-ākim in *al-Mustadrak*, 2:138 §2581. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:205 §18511.

smelt at a distance of seventy years.”¹

Reported by Aḥmad and al-Nasā’ī and the wording is his.

٥/٩. وَفِي رِوَايَةِ أَبِي بَكْرَةَ، قَالَ: قَالَ النَّبِيُّ ﷺ مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حِلِّهَا فَحَرَامٌ عَلَيْهِ الْجَنَّةُ أَنْ يَشُمَّ رِيحَهَا وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ مِئَةِ عَامٍ.
رَوَاهُ النَّسَائِيُّ وَعَبْدُ الرَّزَّاقِ وَابْنُ حِبَّانَ وَالْبَزَّازُ وَالطَّبْرَانِيُّ.

9/5. Abū Bakra رضي الله عنه related that the Prophet ﷺ said:

“Anyone who unjustly kills a non-Muslim under treaty [*mu‘āhad*] will be forbidden to smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of a hundred years.”²

Reported by al-Nasā’ī, ‘Abd al-Razzāq, Ibn Ḥibbān, al-Bazzār and al-Ṭabarānī.

٦/١٠. وَفِي رِوَايَةٍ عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حَقِّهَا لَمْ يَجِدْ رَائِحَةَ الْجَنَّةِ وَإِنْ رَائِحَتُهَا تُوجَدُ مِنْ مَسِيرَةِ خَمْسِمِائَةِ عَامٍ.
رَوَاهُ الْحَاكِمِيُّ وَقَالَ: هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ مُسْلِمٍ.

10/6. Abū Bakra رضي الله عنه also related that Allah’s Messenger ﷺ said:

“Anyone who unjustly kills a non-Muslim under treaty will not approach the fragrance of Paradise, even though its fragrance can be smelt at a distance of five hundred years.”³

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 4:237, 5:369 §§1809, 177. •al-Nasā’ī in *al-Sunan: Kitāb al-qasāma* [The Book of Taking an Oath], chapter: “The Enormity of Murdering a Non-Muslim Citizen,” 8:25 §4749; and in *al-Sunan al-kubrā*, 4:221 §6951. Cited by •al-Mundhiri in *al-Tarḡīb wa al-Tarhīb*, 3:204 §3695.

² Set forth by •al-Nasā’ī in *al-Sunan: Kitāb al-qasāma* [The Book of Taking an Oath], chapter: “The Enormity of Murdering a Non-Muslim Citizen,” 8:25 §4748; and in *al-Sunan al-kubrā*, 4:221 §6950. •Abd al-Razzāq in *al-Muṣannaf*, 10:102 §18521. •Ibn ḥibbān in *al-Ṣaḥīḥ*, 16:391 §8382. •al-Bazzār in *al-Musnad*, 9:138 §3696. •al-Ṭabarānī in *al-Mu‘jam al-awsaṭ*, 1:207 §663.

³ Set forth by •al-ākīm in *al-Mustadrak ‘alā al-Ṣaḥīḥayn*, 1:105 §133.

Reported by al-Ḥākim. According to al-Ḥākim: "This is an authentic tradition in conformity with the stipulation of Muslim."

٧/١١. وَفِي رِوَايَةٍ عَنْهُ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حَقِّهَا حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ أَنْ يَشُمَّ رِيحَهَا وَرِيحُهَا يُرْجَدُ مِنْ مَسِيرَةِ خَمْسِمِائَةِ عَامٍ.

رَوَاهُ الْحَاكِمُ وَابْنُ أَبِي شَيْبَةَ.

11/7. Abū Bakra رضي الله عنه also related that he heard Allah's Messenger ﷺ say:

"Allah has forbidden the fragrance of Paradise to him who unjustly kills a non-Muslim, even though its fragrance will be available at a distance of five hundred years."¹

Reported by al-Ḥākim and Ibn Abī Shayba.

٨/١٢. عَنْ أَبِي بَكْرَةَ رضي الله عنه قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ قَتَلَ مُعَاهِدًا فِي غَيْرِ كُنْهِهِ حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ.

رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَالنَّسَائِيُّ وَاللَّيْثِيُّ وَالْبَزَّازُ وَابْنُ أَبِي شَيْبَةَ،
وَالْحَاكِمُ. وَقَالَ الْحَاكِمُ: هَذَا حَدِيثٌ صَحِيحٌ إِسْنَادًا.

12/8. Abū Bakra رضي الله عنه also related that Allah's Messenger ﷺ said:

"Any Muslim who unjustly kills a non-Muslim with whom there is a peace treaty [*mu'āhad*], Allah will make Paradise forbidden for him."²

¹ Set forth by •al- ḥākim in *al-Mustadrak 'alā al-Ṣaḥīḥayn*, 1:105 §134. •Ibn Abī Shayba in *al-Muṣannaf*, 5:457 §27944.

² Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 5:36-38 §§20393, 20419. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Struggle], chapter: "Fulfilling the Contract of a Non-Muslim Citizen and the Sanctity of His Contract," 3:83 §2760. •al-Nasā'ī in *al-Sunan: Kitāb al-qasāma* [The Book

Reported by Aḥmad, Abū Dāwūd, al-Nasā'ī, al-Dārimī, al-Bazzār, Ibn Abī Shayba and al-Ḥākim. Al-Ḥākim said: "This tradition has an authentic chain of transmission."

٩/١٣. وَفِي رِوَايَةٍ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حِلِّهَا (وَفِي رِوَايَةٍ بِغَيْرِ حَقِّهَا) حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ أَنْ يَجِدَ رِيحَهَا.
رَوَاهُ أَحْمَدُ وَالْحَاكِمُ.

13/9. Abū Bakra رضي الله عنه also related that Allah's Messenger ﷺ said:
"Any Muslim who unlawfully kills a non-Muslim (in one tradition, "unjustly" is reported), Allah has forbidden even the fragrance of Paradise to him."¹

Reported by Aḥmad and al-Hakim.

قَالَ الْكَاشِمِيرِيُّ فِي شَرْحِ هَذَا الْحَدِيثِ:
قَوْلُهُ ﷺ: "مَنْ قَتَلَ مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ" وَمُنْجُ الْحَدِيثِ:
إِنَّكَ أَيُّهَا الْمُخَاطَبُ، قَدْ عَلِمْتَ مَا فِي قَتْلِ الْمُسْلِمِ مِنَ الْإِثْمِ، فَإِنَّ
شَاعَتَهُ بَلَغَتْ مَبْلَغَ الْكُفْرِ، حَيْثُ أَوْجَبَ التَّخْلِيدَ. أَمَّا قَتْلُ مُعَاهِدٍ، فَأَيْضًا
لَيْسَ بِهِيْنِ، فَإِنَّ قَاتِلَهُ أَيْضًا لَا يَجِدُ رَائِحَةَ الْجَنَّةِ.

Commenting on this hadith—*anyone who kills a non-Muslim citizen will not smell the fragrance of Paradise*—
Anwar Shāh Kāshmirī writes in his book *Fayḍ al-Bārī*:

of Taking an Oath], chapter: "The Gravity of Killing a Non-Muslim Citizens," 8:24 §4747; and in *al-Sunan al-kubrā*, 4:221, §6949. •al-Dārimī in *al-Sunan*, 2:308 §2504. •al-Bazzār in *al-Musnad*, 9:129 §3679. •Ibn Abī Shayba in *al-Muṣannaf*, 5:457 §27946. •al-Ḥākim in *al-Mustadrak*, 2:154 §2631. •al-Ṭabarānī in *al-Muʿjam al-awsaṭ*, 8:76 §8011. •Ibn al-Jārūd in *al-Muntaqā*, 1:213 §835. •al-Ṭayālīsī in *al-Musnad*, 1:118 §879. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:231 §18629.

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 5:36 §20399. •al- ākim in *al-Mustadrak ʿalā al-Ṣaḥīḥayn*, 1:105 §135.

(As for) his (ﷺ) statement, "Anyone who kills a non-Muslim under treaty [*mu'āhad*] will not smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of forty years," its essence, dear brother, can be expressed like this: You know the gravity of the sin of killing a Muslim—its odiousness has reached the point of disbelief—and it necessitates that [the killer abides in Hell] forever. As for killing a non-Muslim citizen [*mu'āhad*], it is similarly no small matter, for the one who does it will not smell the fragrance of Paradise.¹

١٤/١٠. عَنْ خَالِدِ بْنِ الْوَلِيدِ (رضي الله عنه)، قَالَ: غَزَوْنَا مَعَ رَسُولِ اللَّهِ ﷺ غَزْوَةَ خَيْبَرَ، فَاسْرَعَ النَّاسُ فِي حِطَائِرِ يَهُودَ، فَأَمَرَنِي أَنْ أُنَادِيَ: الصَّلَاةُ. ... ثُمَّ قَالَ: أَيُّهَا النَّاسُ، إِنَّكُمْ قَدْ أَسْرَعْتُمْ فِي حِطَائِرِ يَهُودَ. أَلَا! لَا تَحِلُّ أَمْوَالُ الْمُعَاهِدِينَ إِلَّا بِحَقِّهَا.
رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَالشَّيْبَانِيُّ وَابْنُ زُنْجَوَيْهِ.

14/10. Khālid b. al-Walīd (رضي الله عنه) said:

"We fought in the Battle of Khaybar [showing great *esprit de corps* owing to being] in the companionship of Allah's Messenger ﷺ and [as victory loomed] some people hastened to enter the compounds of the Jews. The Prophet ﷺ then ordered me to deliver the call to prayer ... then he said, 'O people! You have hastened to enter the compounds of the Jews, but beware; the property of the non-Muslim citizens is not lawful to you except that which is due.'"²

Reported by Aḥmad, Abū Dāwūd, al-Shaybānī and Ibn Zanjawayh.

١٥/١١. وَفِي رِوَايَةٍ عَنْهُ، عَنِ النَّبِيِّ ﷺ: أَلَا! وَإِنِّي أَحْرَمُ عَلَيْكُمْ أَمْوَالَ الْمُعَاهِدِينَ

¹ •Anwar Shāh Kāshmirī, *Fayḍ al-Bārī ‘alā Ṣaḥīḥ al-Bukhārī*, 4:288.

² Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 4:89 §16862. •Abū Dāwūd in *al-Sunan: Kitāb al-aṭ‘ima* [The Book of Foodstuffs], chapter: "The Unlawfulness of Eating Beasts of Prey," 3:356 §3806. •al-Shaybānī in *al-Āḥād wa al-mathānī*, 2:29 §703. •Ibn Zanjawayh in *Kitāb al-amwāl*, p. 379 §618.

بَغَيْرِ حَقِّهَا.

رَوَاهُ الطَّبْرَانِيُّ وَابْنُ زَنْجَوَيْهِ.

15/11. Khālīd b. al-Walīd رضي الله عنه also reported that the Prophet ﷺ said:
“Beware! I forbid you to take the wealth of the non-Muslim citizens unjustly.”¹

Reported by al-Ṭabarānī and Ibn Zanjawayh.

١٢/١٦. وَفِي رِوَايَةٍ عَنْهُ: حَرَّمَ رَسُولُ اللَّهِ ﷺ يَوْمَ خَيْبَرَ أَمْوَالَ الْمُعَاهِدِينَ.
رَوَاهُ الدَّارَقُطْنِيُّ.

16/12. Khālīd b. al-Walīd رضي الله عنه also said:

“On the day of Khaybar, Allah’s Messenger ﷺ forbade seizing the wealth of the non-Muslim citizens.”²

Reported by al-Dāraqūṭnī.

١٣/١٧. عَنْ عَاصِمٍ يَعْنِي ابْنَ كُثَيْبٍ عَنْ أَبِيهِ عَنْ رَجُلٍ مِنَ الْأَنْصَارِ قَالَ: خَرَجْنَا
مَعَ رَسُولِ اللَّهِ ﷺ فِي سَفَرٍ، فَأَصَابَ النَّاسَ حَاجَةٌ شَدِيدَةٌ وَجَهْدٌ، وَأَصَابُوا غَنَمًا،
فَانْتَهَبُوهَا. فَإِنَّ قُدُورَنَا لَتَغْلِي إِذَا جَاءَ رَسُولُ اللَّهِ ﷺ يَمْشِي عَلَى قَوْسِهِ، فَأَكْفَأُ قُدُورَنَا
بِقَوْسِهِ، ثُمَّ جَعَلَ يُرْمِلُ اللَّحْمَ بِالتُّرَابِ. ثُمَّ قَالَ: إِنَّ النُّهْبَةَ لَيْسَتْ بِأَحَلَّ مِنَ الْمَيْتَةِ
أَوْ إِنَّ الْمَيْتَةَ لَيْسَتْ بِأَحَلَّ مِنَ النُّهْبَةِ.
رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي هَاشِمٍ.

17/13. ‘Āṣim b. Kulayb narrated on the authority of his father that one of the *Anṣār* related:

“We set out on a journey with Allah’s Messenger ﷺ. The people

¹ Set forth by •al-Ṭabarānī in *al-Muʿjam al-kabīr*, 4:111 §3828. •Ibn Zanjawayh in *Kitāb al-amwāl*, p. 380 §619.

² Set forth by •al-Dāraqūṭnī in *al-Sunan*, 4:287 §63.

were suffering hunger and were in need, so they forcibly took some goats and slaughtered them. The pots were boiling when the Prophet ﷺ came over, holding his bow, and he started turning our pans upside down with the bow and mixing the meat with the soil. Then he said, 'Eating stolen food is not less unlawful than eating carrion,' or he said: 'Carrion is not more unlawful than plunder!'"¹

Reported by Abū Dāwūd and al-Bayhaqī.

١٤/١٨. وَفِي رِوَايَةِ الْعُرْبَاضِ بْنِ سَارِيَةَ السُّلَمِيِّ قَالَ: نَزَلْنَا مَعَ النَّبِيِّ ﷺ خَيْبَرَ وَمَعَهُ مَنْ مَعَهُ مِنْ أَصْحَابِهِ. وَكَانَ صَاحِبُ خَيْبَرَ رَجُلًا مَارِدًا مُنْكَرًا فَأَقْبَلَ إِلَى النَّبِيِّ ﷺ فَقَالَ: يَا مُحَمَّدُ، أَلَكُمْ أَنْ تَذْبَحُوا حُمْرَنَا وَتَأْكُلُوا ثَمَرَنَا وَتَضْرِبُوا نِسَاءَنَا؟ فَغَضِبَ يَعْنِي النَّبِيُّ ﷺ وَقَالَ: يَا ابْنَ عَوْفٍ، ارْكَبْ فَرَسَكَ ثُمَّ نَادِ: أَلَا إِنَّ الْجَنَّةَ لَا تَحِلُّ إِلَّا لِمُؤْمِنٍ وَأَنْ اجْتَمِعُوا لِلصَّلَاةِ قَالَ: فَاجْتَمَعُوا ثُمَّ صَلَّى بِهِمُ النَّبِيُّ ﷺ ثُمَّ قَامَ فَقَالَ: أَيْحَسِبُ أَحَدُكُمْ مُتَكِنًا عَلَى أَرِيكَتِهِ قَدْ يَظُنُّ أَنَّ اللَّهَ لَمْ يُحَرِّمْ شَيْئًا إِلَّا مَا فِي هَذَا الْقُرْآنِ؟ أَلَا وَإِنِّي وَاللَّهِ قَدْ وَعَظْتُ وَأَمَرْتُ وَنَهَيْتُ عَنْ أَشْيَاءٍ إِنَّهَا لَيُثَلُّ الْقُرْآنُ أَوْ أَكْثَرُ. وَإِنَّ اللَّهَ ﷻ لَمْ يُحِلَّ لَكُمْ أَنْ تَدْخُلُوا بُيُوتَ أَهْلِ الْكِتَابِ إِلَّا بِإِذْنٍ، وَلَا ضَرْبَ نِسَائِهِمْ، وَلَا أَكْلَ ثَمَارِهِمْ.

رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي حَتْمٍ.

18/14. 'Irbād b. Sāriya al-Sulamī ﷺ said:

"We disembarked at Khaybar with the Prophet ﷺ and many of his Companions were with him. One of the chiefs of Khaybar who was arrogant and contentious came to the Prophet ﷺ and asked: 'Is it fair that you slaughter our donkeys, eat our fruits, and beat our women?' The Prophet ﷺ became annoyed and said: 'O Ibn 'Awf! Ride your steed and declare that Paradise is only for the believers, and that they should gather for prayer.' They all gathered, and the Prophet ﷺ

¹ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], 3:66 §2705. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:61 §17789.

led them in prayer, stood up, and said: 'Does any of you recline on his couch and imagine that Allah has not forbidden anything save that which has been mentioned in the Qur'ān? Beware, by Allah, I have exhorted, issued commands and forbade various matters. They are as numerous as what is found in the Qur'ān, or more. Allah has not permitted you to enter the houses of the People of the Book without permission, or to beat their women, or to eat their fruit.'"¹

Reported by Abū Dāwūd and al-Bayhaqī.

١٥/١٩. عَنْ يَحْيَى بْنِ سَعِيدٍ، قَالَ: حَدَّثْتُ، أَنَّ أَبَا بَكْرٍ بَعَثَ جُيُوشًا إِلَى الشَّامِ فَخَرَجَ يَتَّبِعُ يَزِيدَ بْنَ أَبِي سُفْيَانَ، فَقَالَ: إِنِّي أُوصِيكَ بِعَشْرِ: لَا تَقْتُلَنَّ صَبِيًّا، وَلَا امْرَأَةً، وَلَا كَبِيرًا هَرِمًا، وَلَا تَقْطَعَنَّ شَجَرًا مُثْمِرًا، وَلَا تُحْرِبَنَّ عَامِرًا، لَا تَعْقِرَنَّ شَاةً وَلَا بَعِيرًا إِلَّا لِمَاكَلَةٍ، وَلَا تُغْرِقَنَّ نَخْلًا، وَلَا تُحْرِقَنَّه، وَلَا تَغْلُلَ، وَلَا تَجْبِنَ.

رَوَاهُ مَالِكٌ وَابْنُ أَبِي شَيْبَةَ وَاللَّفْظُ لَهُ.

19/15. Yaḥyā b. Sa'īd states that he was told that while seeing off the Muslim forces for Syria, Abū Bakr al-Ṣiddīq عليه السلام came to Yazīd b. Abī Sufyān and told him:

"I command you to observe ten things: Do not kill a young child, a woman or an elderly infirm man. Do not cut down fruit-bearing trees or demolish buildings. Do not slaughter a sheep or a camel except for food. Do not drown or burn date-palm trees. And do not steal from the war booty or show cowardice."²

Reported by Mālik and Ibn Abī Shayba (the wording is his).

١٦/٢٠. وَفِي رِوَايَةِ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ أَبَا بَكْرٍ عليه السلام لَمَّا بَعَثَ الْجُنُودَ نَحْوَ

¹ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj wa al-imāra wa al-fay* [The Book of Land Tax, Leadership and the Spoils Acquired without Fighting], 3:170 §3050. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:204 §18508. •Ibn 'Abd al-Barr in *al-Tamhīd*, 1:149.

² Set forth by •Mālik in *al-Muwatṭā*, 2:447 §965. •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33121.

الشَّامِ يَزِيدَ بْنِ أَبِي سُفْيَانَ وَعَمْرُو بْنُ الْعَاصِ وَشَرْحِبِيلَ بْنَ حَسَنَةَ قَالَ ... ثُمَّ جَعَلَ يُوصِيهِمْ فَقَالَ ... وَلَا تُفْسِدُوا فِي الْأَرْضِ وَلَا تَعْصُوا مَا تَوْمَرُونَ ... وَلَا تُغْرِقُوا نَخْلًا وَلَا تُحْرِقْنَهَا، وَلَا تَعْمُرُوا بَيْمَةً وَلَا شَجَرَةً تُثْمِرُ، وَلَا تَهْدِمُوا بَيْعَةً، وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا الشُّيُوخَ وَلَا النِّسَاءَ. وَسَتَجِدُونَ أَقْوَامًا حَبَسُوا أَنْفُسَهُمْ فِي الصَّوَامِعِ، فَادْعُوهُمْ، وَمَا حَبَسُوا أَنْفُسَهُمْ لَهُ.

رَوَاهُ مَالِكٌ وَعَبْدُ الرَّزَّاقِ وَالْبَيْهَقِيُّ وَاللَّفْظُ لَهُ.

20/16. According to Sa'īd b. al-Musayyib رحمته الله, Abū Bakr al-Ṣiddīq رحمته الله said while sending the troops to Syria under the leadership of Yazīd b. Abī Sufyān, 'Amr b. al-ʿĀṣ and Shurahbīl b. asana:

"Neither sow corruption in the land nor defy what you are commanded to do. Do not drown or burn date-palm trees. Do not kill any animal. Do not cut down a fruit-bearing tree. Do not demolish a church. And do not kill any children or old people or women. Soon you shall come upon people who have secluded themselves in cloisters; you must leave them to engage in that for which they have secluded themselves."¹

Reported by Mālik, 'Abd al-Razzāq and al-Bayhaqī (the wording is his).

وَفِي رِوَايَةٍ زَادَ الْهِنْدِيُّ: وَلَا مَرِيضًا وَلَا رَاهِبًا.

ذَكَرَهُ الْهِنْدِيُّ.

And in one version, al-Hindī added the following words:

"Do not kill a sick person or a priest."²

¹ Set forth by •Mālik in *al-Muwatṭā*, 2:448 §966. •ʿAbd al-Razzāq in *al-Muṣannaf*, 5:199. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:85. Cited by •al-Hindī in *Kanz al-ʿummāl*, 1:296. •Ibn Qudāma in *al-Mughnī*, 8:451-452, 477 §17904.

² Cited by •al-Hindī in *Kanz al-ʿummāl*, 4:474 §11409.

Reported by al-Hindī.

١٧/٢١. وَفِي رِوَايَةٍ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ أَبُو بَكْرٍ الصِّدِّيقُ لِيَزِيدَ بْنِ أَبِي سُفْيَانَ: وَلَا تَهْدِمُوا بَيْعَةً... وَلَا تَقْتُلُوا شَيْخًا كَبِيرًا، وَلَا صَبِيًّا وَلَا صَغِيرًا وَلَا امْرَأَةً.
ذَكَرَهُ الْهِنْدِيُّ.

11/17. According to ‘Abd Allāh b. ‘Umar رَضِيَ اللَّهُ عَنْهُمَا, Abū Bakr al-Ṣiddīq رَضِيَ اللَّهُ عَنْهُ said to Yazīd b. Abī Sufyān:

“Do not demolish the cloisters, do not kill any old man or infant or a young child or woman.”¹

Reported by al-Hindī.

١٨/٢٢. قَالَ الْأَوْزَاعِيُّ: وَنَهَى أَبُو بَكْرٍ الصِّدِّيقُ أَنْ يَقْطَعَ شَجَرًا مُثْمِرًا أَوْ يُجَرِّبَ عَامِرًا، وَعَمِلَ بِذَلِكَ الْمُسْلِمُونَ بَعْدَهُ.
رَوَاهُ التِّرْمِذِيُّ.

12/18. Al-Awzā‘ī said:

“Abū Bakr al-Ṣiddīq رَضِيَ اللَّهُ عَنْهُ forbade people from cutting down fruit-bearing trees or destroying buildings [during war]—and the Muslims abided by his instructions after that.”²

Reported by al-Tirmidhī.

١٩/٢٣. وَفِي رِوَايَةٍ: كَتَبَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ إِلَى أَبِي عُبَيْدَةَ ابْنِ الْجَرَّاحِ: وَقَالَ: وَامْنَعِ الْمُسْلِمِينَ مِنْ ظُلْمِهِمْ وَالْإِضْرَارِ بِهِمْ وَأَكْلِ أَمْوَالِهِمْ إِلَّا بِحِلِّهَا.
ذَكَرَهُ أَبُو يُوسُفَ.

13/19. In another narration: The letter ‘Umar b. al-Khaṭṭāb رَضِيَ اللَّهُ عَنْهُ wrote

¹ Ibid., 4:475 §11411.

² Set forth by al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Book of Military Expeditions], 4:122 §1552.

to Abū 'Ubayda b. al-Jarrāh رضي الله عنه, the Governor of Syria, contained:

"[In your capacity as Governor] see to it that you prohibit the Muslims [under your command] from oppressing them [the non-Muslim citizens], harming them or illegally eating up their wealth, except what is lawful."¹

Narrated by Abū Yūsuf.

٢٤ / ٢٠. وَفِي رِوَايَةٍ، قَالَ عَلِيٌّ رضي الله عنه: إِنَّمَا بَدَلُوا الْجِزْيَةَ لِيَتَكُونَ دِمَاؤُهُمْ كَدِمَائِنَا وَأَمْوَالُهُمْ كَأَمْوَالِنَا.
ذَكَرَهُ النَّوَوِيُّ.

24/20. In one tradition, 'Alī b. Abī Ṭālib رضي الله عنه said:

"The non-Muslim citizens pay the security tax so that their blood and property should be as inviolable as ours."²

Narrated by al-Nawawī.

TRADITIONS OF PIOUS SCHOLARS OF EARLY TIMES

• قَالَ الْإِمَامُ النَّوَوِيُّ الشَّافِعِيُّ فِي شَرْحِهِ: فَإِنَّ مَالَ الدِّمِيِّ وَالْمُعَاهِدِ وَالْمُرْتَدِّ فِي هَذَا كَمَالِ الْمُسْلِمِ.

Imam Yaḥyā b. Sharaf al-Nawawī writes: "In this context, the wealth of the non-Muslim citizen, the non-Muslim under agreement of protection and even the apostate is certainly like that of a Muslim."³

• قَالَ الْإِمَامُ ابْنُ قُدَامَةَ الْحَنْبَلِيُّ: فَإِنَّ الْمُسْلِمَ يُقَطَّعُ بِسَرَقَةِ مَالِهِ.

Imam Ibn Qudāma al-Ḥanbalī said: "Indeed, the prescribed punishment shall be enforced if a Muslim happens

¹ Cited by •Abū Yūsuf in *al-Kharāj*, p. 141.

² Cited by •Ibn Qudāma in *al-Mughnī*, 9:181. •al-Zayla'ī in *Naṣb al-rāya*, 3:381.

³ •Al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:7.

to steal the possessions of a non-Muslim.”¹

- قَالَ الْإِمَامُ أَبُو مُحَمَّدٍ ابْنُ حَزْمٍ الظَّاهِرِيُّ: لَا خِلَافَ فِي أَنَّ الْمُسْلِمَ يُقَطَّعُ إِنْ سَرَقَ مِنْ مَالِ الذَّمِّيِّ وَالْمُسْتَأْمِنِ.

Imam Abū Muhammad Ibn Ḥazm al-Zāhirī holds: “There is no disagreement on subjecting a Muslim to the prescribed punishment if he steals the possessions of a non-Muslim citizen.”²

- قَالَ الْإِمَامُ ابْنُ رُشْدٍ الْمَالِكِيُّ: وَأَمَّا مِنْ طَرِيقِ الْقِيَاسِ فَإِنَّهُمْ اعْتَمَدُوا عَلَى إِجْمَاعِ الْمُسْلِمِينَ أَنَّ يَدَ الْمُسْلِمِ تُقَطَّعُ إِذَا سَرَقَ مِنْ مَالِ الذَّمِّيِّ.

Imam Ibn Rushd al-Mālikī said: “There is a consensus on the prescribed punishment that it shall be awarded to the Muslim who steals the possessions of a non-Muslim citizen.”³

- وَقَالَ الْإِمَامُ الْحَصَكْفِيُّ الْحَنْفِيُّ: وَيَضْمَنُ الْمُسْلِمُ قِيَمَةَ خَمْرِهِ وَخِنْزِيرِهِ إِذَا أَتْلَفَهُ.

Imam al-Ḥaṣkafī al-Hanafī has observed: “The Muslim who destroys his [the Christian’s] wine and pork is legally responsible to pay for it.”⁴

- وَذَكَرَ الْقُرَافِيُّ الْمَالِكِيُّ: وَكَذَلِكَ حَكَى ابْنُ حَزْمٍ فِي «مَرَائِبِ الْإِجْمَاعِ» لَهُ: أَنَّ مَنْ كَانَ فِي الذِّمَّةِ وَجَاءَ أَهْلُ الْحَرْبِ إِلَى بِلَادِنَا يَقْصِدُونَهُ، وَجَبَ عَلَيْنَا أَنْ نَخْرُجَ لِقِتَالِهِمْ بِالْكُرَاعِ وَالسَّلَاحِ، وَنَمُوتُ دُونَ ذَلِكَ.

Imam al-Qurāfī al-Mālikī writes that Ibn Ḥazm has

• Ibn Qudāma, *al-Mughnī*, 9:112.
 • Ibn Ḥazm, *al-Muḥallā*, 10:351.
 • Ibn Rushd al-Mālikī, *Bidāyat al-mujtahid*, 2:299.
 • Al-Ḥaṣkafī, *al-Durr al-mukhtār*, 2:223. • Ibn ‘Ābidīn al-Shāmī, *Radd al-muḥtār*, 3:273.

described in his book *Marātib al-ijmāʿ*:

“Indeed for the *dhimmīs* (non-Muslim citizens), it is binding on our Islamic state that, for the protection of non-Muslim citizens, we wage war with military might against those combatants who aggress against them, even though our troops may die (in fighting against the aggressors)”.¹

وَذَكَرَ الْقُرَافِيُّ الْمَالِكِيُّ أَيْضًا: إِنَّ عَقْدَ الذِّمَّةِ لِمَا كَانَ عَقْدًا عَظِيمًا، فَيُوجِبُ عَلَيْنَا حُقُوقًا لَهُمْ مِنْهَا مَا حَكَى ابْنُ حَزْمٍ فِي «مَرَائِبِ الْإِجْمَاعِ». وَنَجْعَلُهُمْ فِي جَوَارِنَا وَفِي حَقِّ رَبَّنَا وَفِي ذِمَّةِ اللَّهِ تَعَالَى وَذِمَّةِ رَسُولِ اللَّهِ ﷺ وَذِمَّةِ دِينِ الْإِسْلَامِ. وَالَّذِي إِجْمَاعُ الْأُمَّةِ عَلَيْهِ أَنَّ مَنْ كَانَ فِي الذِّمَّةِ وَجَاءَ أَهْلُ الْحَرْبِ إِلَى بِلَادِنَا يَقْصِدُونَهُ، وَجَبَ عَلَيْنَا أَنْ نَخْرُجَ لِقِتَالِهِمْ بِالْكُرَاعِ وَالسَّلَاحِ، وَتَمُوتَ دُونَ ذَلِكَ صَوْنًا لِمَنْ هُوَ فِي ذِمَّةِ اللَّهِ تَعَالَى وَذِمَّةِ رَسُولِهِ ﷺ. فَإِنَّ تَسْلِيمَهُ دُونَ ذَلِكَ إِهْمَالٌ لِعَقْدِ الذِّمَّةِ.

وَمِنْهَا أَنْ مَنْ اعْتَدَى عَلَيْهِمْ وَلَوْ بِكَلِمَةٍ سَوْءٍ أَوْ غِيْبَةٍ فِي عَرْضٍ أَحَدِهِمْ أَوْ نَوْعٍ مِنْ أَنْوَاعِ الْأَذْيَةِ أَوْ أَعَانَ عَلَى ذَلِكَ، فَقَدْ ضَيَّعَ ذِمَّةَ اللَّهِ تَعَالَى وَذِمَّةَ رَسُولِهِ.

Imam al-Qurāfī al-Mālikī has also demonstrated:

The *dhimma* contract concluded with the non-Muslims is a great treaty that establishes certain rights they have upon us. Some of these rights are those which Ibn Ḥazm has described in his book *Marātib al-ijmāʿ*. Hence, we keep the non-Muslim citizens protected in our proximity under the bountiful obligation of their rights prescribed by our Lord,

¹ • al-Qurāfī, *al-Furūq*, 3:29.

Almighty Allah, the Messenger of God ﷺ and the religion of Islam.

There exists among *Umma* a consensus on it. Indeed, when the *dhimmīs* (non-Muslim citizens) are there and the aggressing combatants intrude into the boundaries of our state with the intention to commit aggression against them, it is incumbent upon the Islamic state to fight (against the aggressors) with troops and military arsenal, even if (while fighting, the soldiers) lay down their lives. (The state is) to protect the Non-Muslim citizens, for they are under the bountiful obligation of Allah and His Messenger. Handing them over to the aggressing combatants without fighting a defensive war will be in sheer negligence of and indifference to the *dhimma* contract.

One of the rights of the Non-Muslim citizens is also that if an individual aggresses against the Non-Muslim citizens—even if defaming someone by an evil word, through backbiting, afflicting with torture or supporting someone against them—he will render the bountiful obligation of Allah and His Messenger ﷺ null and void.¹

The aforementioned sayings of the jurists prove that it is obligatory for all Muslims to protect the honour and wealth of non-Muslim citizens.

¹•al-Qurāfī, *al-Furūq*, 3:29.

الْبَابُ الثَّالِثُ

مَنْعُ قَتْلِ النِّسَاءِ وَالْوِلْدَانِ وَالشُّيُوخِ وَالرُّهْبَانِ

CHAPTER THREE

THE PROHIBITION OF KILLING
WOMEN, CHILDREN, THE ELDERLY
AND PRIESTS

١/٢٥. عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: وَجَدْتُ امْرَأَةً مَقْتُولَةً فِي بَعْضِ مَغَازِي رَسُولِ اللَّهِ ﷺ فَنَهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ النِّسَاءِ وَالصَّبِيَّانِ. مُتَّفَقٌ عَلَيْهِ.

25/1. ‘Abd Allāh b. ‘Umar رضي الله عنهما said:

“A woman was found slain in one of the expeditions. Upon this Allah’s Messenger ﷺ forbade the killing of women and children.”¹

Agreed upon by al-Bukhārī and Muslim.

٢/٢٦. وَفِي رِوَايَةٍ طَوِيلَةٍ عَنْ يَزِيدَ بْنِ هُرْمُزٍ فَمِنْهَا، فَكَتَبَ إِلَيْهِ (أَيُّ النَّجْدَةِ) ابْنُ عَبَّاسٍ فَقَالَ: وَإِنَّ رَسُولَ اللَّهِ ﷺ لَمْ يَكُنْ يَقْتُلُ الصَّبِيَّانَ فَلَا تَقْتُلِ الصَّبِيَّانَ. رَوَاهُ مُسْلِمٌ.

26/2. Yazīd b. Hurmuz narrated in a detailed report:

“‘Abd Allāh b. ‘Abbās wrote in reply to a letter from Najda: ‘Indeed, the Messenger of Allah ﷺ did not kill children; so you must not kill them either.’”²

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], chapter: “Killing Women in War,” 3:1098 §2852. •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], chapter: “The Unlawfulness of Killing Women and Children during War,” 3:1364 §1744. •Aḥmad b. Ḥanbal in *al-Musnad*, 2:22 §4739. •al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Book of Military Expeditions], chapter: “What Has Come to Us about the Killing of Women and Children,” 4:136 §1569. •Ibn Mājah in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter, “Indiscriminate night attacks and killing women and children,” 2:947 §2841. •al-Nasā’ī in *al-Sunan al-kubrā*, 5:185 §8618. •al-Dārimī in *al-Sunan*, 2:293 §2462. •Ibn Ḥibbān in *al-Ṣaḥīḥ*, 1:344 §135.

² Set forth by •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of

Reported by Muslim.

٢٧/٣. وَفِي رِوَايَةٍ رَبَاحِ بْنِ رَبِيعٍ رضي الله عنه قَالَ: كُنَّا مَعَ رَسُولِ اللَّهِ ﷺ فِي غَزْوَةٍ، فَرَأَى النَّاسَ مُجْتَمِعِينَ عَلَى شَيْءٍ، فَبَعَثَ رَجُلًا فَقَالَ: انْظُرْ عَلَامَ اجْتَمَعَ هَؤُلَاءِ؟ فَجَاءَ فَقَالَ: عَلَى امْرَأَةٍ قَتِيلٍ، فَقَالَ: مَا كَانَتْ هَذِهِ لِيُقَاتَلَ. قَالَ: وَعَلَى الْمُقَدَّمَةِ خَالِدِ بْنِ الْوَلِيدِ، فَبَعَثَ رَجُلًا فَقَالَ: قُلْ لِحَالِدٍ: لَا يَقْتُلَنَّ امْرَأَةً وَلَا عَسِيفًا.

وفي رواية: لَا يَقْتُلَنَّ ذُرِّيَّةً وَلَا عَسِيفًا.

رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَاللَّفْظُ لَهُ وَابْنُ مَاجَهَ وَالنَّسَائِيُّ وَابْنُ حِبَّانَ وَابْنُ أَبِي شَيْبَةَ وَأَبُو يَعْنَى وَالْحَاكِمُ.

27/3. According to Rabāḥ b. Rabīʿ رضي الله عنه:

“We were with Allah’s Messenger ﷺ in one of the battle expeditions, and he saw some people gathered around something. He sent a man out, saying: ‘Go and see what they are gathering around.’ The man returned and informed him, saying: ‘They are gathering around a slain woman.’ The Prophet ﷺ said: ‘She was not amongst those who fight!’ The head of the group was Khālid b. al-Walid, so the Prophet sent a man to go and inform him: ‘Neither an [idolatrous] woman nor a hired servant should be killed.’”¹

In another report, it is stated: “neither [idolatrous]

Jihad and Battles], chapter: “Women participants in jihid to be given a prize but not a regular share in the booty, and prohibition to kill children of the enemy,” 3:1444 §1812.

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 3:488 §16035. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter: “The Killing of Women,” 3:53 §2669. •Ibn Mājah in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter: “Making a sudden raid at night and the killing women and children,” 2:948 §2842. •al-Nasāʾī in *al-Sunan al-kubrā*, 5:186–187 §§8625, 8627. •Ibn ʿabbān in *al-Ṣaḥīḥ*, 11:110 §4789. •Ibn Abī Shayba in *al-Muṣannaʿ*, 6:482 §33117. •Abū Yaʿlā in *al-Musnad*, 3:115–116 §1546. •al-Ḥākim in *al-Mustadrak*, 2:133 §2565. •al-Ṭabarānī in *al-Muʿjam al-kabīr*, 4:10 §3489. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:82 §17883.

children nor a hired servant should be killed.”

Reported by Aḥmad, Abū Dāwūd (the wording is his), Ibn Mājah, al-Nasā’ī, Ibn ibbān, Ibn Abī Shayba, Abū Ya’lā and al- ākim.

٤/٢٨. عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ، كَانَ رَسُولُ اللَّهِ ﷺ إِذَا غَزَا قَوْمًا لَمْ يُغَزْ حَتَّى يُضْبِحَ.
رَوَاهُ الْبُخَارِيُّ وَأَحْمَدُ وَابْنُ جَبَّانٍ وَأَبُو يَعْلَى.

28/4. According to Anas b. Mālik رَضِيَ اللَّهُ عَنْهُ:

“Allah’s Messenger ﷺ would not attack any nation until daybreak.”¹

Reported by al-Bukhārī, Aḥmad, Ibn ibbān and Abū Ya’lā.

٥/٢٩. وَفِي رِوَايَةٍ عَنْهُ: أَنَّ النَّبِيَّ ﷺ خَرَجَ إِلَى خَيْبَرَ فَجَاءَهَا لَيْلًا. وَكَانَ إِذَا جَاءَ قَوْمًا
بَلِيلٍ لَا يُغِيرُ عَلَيْهِمْ حَتَّى يُضْبِحَ.
رَوَاهُ الْبُخَارِيُّ وَالتِّرْمِذِيُّ وَالنَّسَائِيُّ وَابْنُ جَبَّانٍ.

29/5. Anas b. Mālik رَضِيَ اللَّهُ عَنْهُ also said:

“The Prophet ﷺ set out towards Khaybar. He arrived there at night. When he came to a people [a force] at night, he would not attack them until daybreak.”²

Reported by al-Bukhārī, al-Tirmidhī, al-Nasā’ī and Ibn ibbān.

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “The Prophet’s summons to Islam and Prophethood,” 3:1077 §2784. •Aḥmad b. anbal in *al-Musnad*, 3:159 §12639. •Abū Ya’lā in *al-Musnad*, 6:431 §3804. •Ibn ibbān in *al-Ṣaḥīḥ*, 11:49 §4745.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “The Prophet ﷺ calling people to Islam and Prophethood,” 3:1077 §2785. •al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Military Expeditions], chapter: “Waging night offences and indiscriminate nocturnal attacks,” p. 335,” 4:121 §1550. •al-Nasā’ī in *al-Sunan al-kubrā*, 5:178 §8598. •Ibn ibbān in *al-Ṣaḥīḥ*, 11:51 §4746.

٦/٣٠. عَنِ الْأَسْوَدِ بْنِ سَرِيعٍ رضي الله عنه قَالَ: كُنَّا فِي غَزَاةٍ فَأَصَبْنَا ظَفَرًا وَقَتَلْنَا مِنَ الْمُشْرِكِينَ حَتَّى بَلَغَ بِهِمُ الْقَتْلُ إِلَى أَنْ قَتَلُوا الذَّرِّيَّةَ فَبَلَغَ ذَلِكَ النَّبِيَّ ﷺ فَقَالَ: مَا بَالُ أَقْوَامٍ بَلَغَ بِهِمُ الْقَتْلُ إِلَى أَنْ قَتَلُوا الذَّرِّيَّةَ؟ أَلَا، لَا تُقَتِّلَنَّ ذُرِّيَّةً! أَلَا، لَا تُقَتِّلَنَّ ذُرِّيَّةً! قِيلَ: لِمَ، يَا رَسُولَ اللَّهِ، أَلَيْسَ هُمْ أَوْلَادُ الْمُشْرِكِينَ؟ قَالَ: أَوْ لَيْسَ خِيَارُكُمْ أَوْلَادَ الْمُشْرِكِينَ؟

وفي رواية زاد: فَقَالَ رَجُلٌ: يَا رَسُولَ اللَّهِ، إِنَّمَا هُمْ أَبْنَاءُ الْمُشْرِكِينَ. فَقَالَ: خِيَارُكُمْ أَبْنَاءُ الْمُشْرِكِينَ. أَلَا، لَا تُقَتِّلَنَّ الذَّرِّيَّةَ! كُلُّ نَسَمَةٍ تُوَلَّدُ عَلَى الْفِطْرَةِ، حَتَّى يُعْرِبَ عَنْهَا لِسَانُهَا، فَأَبْوَاهَا يَهُودَانِهَا وَيَنْصَرَانِهَا.

رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَالِدَّارِيُّ وَابْنُ أَبِي شَيْبَةَ. وَقَالَ الْحَاكِمُ: هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ الشَّيْخَيْنِ، وَقَالَ الْهَيْثَمِيُّ: رَوَاهُ أَحْمَدُ بِأَسَانِيدَ وَبَعْضُ أَسَانِيدِ أَحْمَدَ رِجَالُهُ رِجَالُ الصَّحِيحِ.

30/6. Al-Aswad b. Sari^c رضي الله عنه narrated:

"We were once in a battle and gained the upper hand and killed many of the pagans, including some children. The news reached the Prophet ﷺ and he said, 'What is wrong with some people that they went so far as to kill children? Beware! Do not kill children at all! Beware! Do not kill children at all!' Someone asked: 'Why, O Messenger of Allah? Are they not the children of the pagans?' He replied: 'Are the best amongst you not from the children of pagans?'"¹

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 3:435 §15626-15627 and in 4:24 §16342. •al-Nasā'ī in *al-Sunan al-kubrā: Kitāb al-siyar* [The Book of Military Expeditions], chapter: "The Prohibition of Killing the Children of the Pagans," 5:184 §8616. •al-Dārimī in *al-Sunan*, 2:294 §2463. •Ibn Abī Shayba in *al-Muṣannaf*, 6:484 §33131. •Ibn ibbān in *al-Ṣaḥīḥ*, 1:341 §132. •al-ākīm in *al-Mustadrak*, 2:133-134 §2566-2567. •al-Tabarānī in *al-Mu'jam al-kabīr*, 1:284 §829. •al-Shaybānī in *al-Āḥād wa al-Mathānī*, 2:375 §1160. •Abū Nu'aym in *Hilya al-Awliyā'*, 8:263. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17868. Cited by •al-Haythamī in *Majma' al-zawā'id*, 5:316.

In another narration it reads: "A man said: 'O Messenger of Allah! They are only the children of the pagans!' He ﷺ replied: 'The best of you are the children of pagans. Beware! Children must not be killed. Every soul is born upon the primordial nature (*fiṭra*), until his language manifests it and his parents make him a Jew or a Christian.'"

Reported by Aḥmad, al-Nasā'ī, al-Dārimī and Ibn Abī Shayba. Al-Ḥākim said: "This is an authentic tradition in conformity with the stipulation of al-Bukhārī and Muslim." According to al-Haythamī: "Aḥmad narrated it from several chains and the sources of some chains are authentic."

٧/٣١. وَفِي رِوَايَةٍ عَنْهُ: فَقَالَ أَلَا أَنْ خِيَارَكُمْ أَبْنَاءُ الْمُشْرِكِينَ ثُمَّ قَالَ: أَلَا لَا تَقْتُلُوا ذُرِّيَّةَ أَلَا لَا تَقْتُلُوا ذُرِّيَّةً.

رَوَاهُ أَحْمَدُ وَالْبَيْهَقِيُّ.

31/7. Al-Aswad b. Sarī' has also reported that Allah's Messenger ﷺ said:

"Beware! The best among you were the sons of pagans. Beware! Do not kill children at all! Beware! Do not kill children at all!"¹

Reported by Aḥmad and al-Bayhaqī.

٨/٣٢. عَنْ ابْنِ عَبَّاسٍ قَالَ: كَانَ رَسُولُ اللَّهِ ﷺ إِذَا بَعَثَ جَيْوشَهُ قَالَ: اخْرُجُوا بِسْمِ اللَّهِ. تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ مَنْ كَفَرَ بِاللَّهِ. لَا تَغْدِرُوا، وَلَا تَغْلُوا، وَلَا تُمْتَلُوا، وَلَا تَقْتُلُوا الْوِلْدَانَ، وَلَا أَصْحَابَ الصَّوَامِعِ.

رَوَاهُ أَحْمَدُ وَابْنُ أَبِي شَيْبَةَ وَأَبُو يَعْلَى.

32/8. Ibn 'Abbās ؓ reported:

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 3:435 §15626–15627. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17868.

“While dispatching the troops, the Messenger of Allah ﷺ used to give the instructions: ‘Depart in the name of Allah. You are going to fight with infidels in the way of Allah; do not break a promise or a treaty; do not steal from the spoils of war; do not mutilate the bodies; and do not slay children and monks.’”¹

Reported by Aḥmad, Ibn Abī Shayba and Abū Ya‘lā.

٩/٣٣. وَفِي رِوَايَةٍ عَنْهُ قَالَ: إِنَّ النَّبِيَّ ﷺ كَانَ إِذَا بَعَثَ جُيُوشَهُ قَالَ: لَا تَقْتُلُوا أَصْحَابَ الصَّوَامِعِ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَالطَّحَاوِيُّ وَالدَّيْلَمِيُّ.

33/9. Ibn ‘Abbās ؓ has reported:

“The Prophet ﷺ would enjoin as he dispatched an army: ‘Do not kill those (priests) who tend to monasteries.’”²

Reported by Ibn Abī Shayba, al-Ṭaḥāwī and al-Daylamī.

١٠/٣٤. وَفِي رِوَايَةٍ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ ؓ قَالَ: كَانَ نَبِيُّ اللَّهِ ﷺ إِذَا بَعَثَ جَيْشًا مِّنَ الْمُسْلِمِينَ إِلَى الْمُشْرِكِينَ قَالَ: انْطَلِقُوا بِاسْمِ اللَّهِ فَذَكَرَ الْحَدِيثَ وَفِيهِ وَلَا تَقْتُلُوا وَلِيدًا طِفْلًا، وَلَا امْرَأَةً، وَلَا شَيْخًا كَبِيرًا، وَلَا تَغُورُنَّ عَيْنًا، وَلَا تَعْفُرُنَّ شَجَرَةً إِلَّا سَجَرًا يَمْنَعُكُمْ قِتَالًا أَوْ يَحْجُزُ بَيْنَكُمْ وَبَيْنَ الْمُشْرِكِينَ، وَلَا تُمْتَلُوا بِأَدْمِيٍّ وَلَا بِهَيْمَةٍ، وَلَا تَغْدِرُوا وَلَا تَغْلُوا.

رَوَاهُ الْبَيْهَقِيُّ وَذَكَرَهُ الْهَنْدِيُّ.

34/10. ‘Alī b. Abī Ṭālib ؓ said that when the Prophet ﷺ dispatched

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 1:300 §2728. •Ibn Abī Shayba in *al-Muṣṣannaḥ*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 4:422 §2549. Cited by •Ibn Rushd in *Bidāya al-mujtahid*, 1:281.

² Set forth by •Ibn Abī Shayba in *al-Muṣṣannaḥ*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 5:59 §2650. •al-Ṭaḥāwī in *Sharḥ ma‘ānī al-āthār*, 3:225. •al-Daylamī in *Musnad al-firdaws*, 5:45 §7410.

the Muslim army towards the pagans, he would advise them to proceed in the name of Allah and then enjoin:

“Do not kill a young boy, a woman or an old man. Do not cause fountains to dry up and do not destroy any trees, except those that cause hindrance during war. Mutilate neither a human nor an animal, and do not break a promise or breach a trust.”¹

Reported by al-Bayhaqī and cited by al-Hindī.

١١/٣٥. عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: وَلَا تَقْتُلُوا شَيْخًا فَانِيًا وَلَا طِفْلًا وَلَا صَغِيرًا وَلَا امْرَأَةً.
رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي شَيْبَةَ وَابْنُ أَبِي شَيْبَةَ.

35/11. Anas b. Mālik رضي الله عنه related that Allah's Messenger ﷺ said:

“Do not kill any infirm old man, or any infant or young child or woman.”²

Reported by Abū Dāwūd, Ibn Abī Shayba and al-Bayhaqī.

١٢/٣٦. وَفِي رِوَايَةٍ رَأْسِدِ بْنِ سَعْدٍ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ عَنْ قَتْلِ النِّسَاءِ وَالذَّرِّيَةِ وَالشَّيْخِ الْكَبِيرِ الَّذِي لَا حِرَاكَ بِهِ.
رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

36/12. Rāshid b. Sa'd narrated:

“The Messenger of Allah ﷺ forbade the killing of women, children and the debilitated and infirm old man.”³

Reported by Ibn Abī Shayba.

¹ Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:90 §17934. Cited by •al-Hindī in *Kanz al-‘ummāl*, 4:205 §11425.

² Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], 3:37 §2614. •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33118. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:90 §17932.

³ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33135.

١٣/٣٧. وَفِي رِوَايَةٍ ابْنِ كَعْبٍ بَنِ مَالِكٍ رضي الله عنه أَنَّ النَّبِيَّ ﷺ حِينَ بَعَثَ إِلَى ابْنِ أَبِي حَقِيقٍ، نَهَى حِينَئِذٍ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ.
رَوَاهُ عَبْدُ الرَّزَّاقِ وَالشَّافِعِيُّ وَالطَّحَاوِيُّ وَالْبَيْهَقِيُّ.

37/13. Ibn Ka'b b. Mālik رضي الله عنه narrated:

"When the Prophet ﷺ dispatched an army to Ibn Abī aqīq, he forbade the killing of women and children."¹

Reported by 'Abd al-Razzāq, al-Shāfi'ī, al-Ṭahāwī and al-Bayhaqī.

١٤/٣٨. وَفِي رِوَايَةٍ عَطِيَّةُ الْقُرْظِيُّ قَالَ: كُنْتُ فِيْمَنْ حَكَمَ فِيْهِمْ سَعْدُ بْنُ مُعَاذٍ، فَشَكُّوا فِيَّ: أَمِنَ الذَّرِّيَّةُ أَنَا أَمْ مِنَ الْمُقَاتِلَةِ؟ فَنَظَرُوا إِلَى عَانَتِي فَلَمْ يَجِدُوهَا نَبَتًا، فَالْقَيْتُ فِي الذَّرِّيَّةِ، وَلَمْ أُقْتَلْ.

رَوَاهُ ابْنُ حِبَّانَ وَعَبْدُ الرَّزَّاقِ وَالطَّبْرَانِيُّ وَالْبَيْهَقِيُّ.

38/14. According to 'Aṭīya al-Qurazī رضي الله عنه:

"I was amongst those judged by Sa'd b. Mu'ādh [when he was given the authority to decide the fate of the plotters of Banū Qurayẓa], but they were in doubt about me—was I to be counted amongst the children or amongst those who engaged in hostilities?—so, to find the answer, they examined my pubic regions and saw that I had yet to grow pubic hair [and thus was underage], so they grouped me with the children and I was spared."²

¹ Set forth by •'Abd al-Razzāq in *al-Muṣannaf*, 5:202 §9385. •al-Shāfi'ī in *al-Musnad*, p. 238. •al-Ṭahāwī in *Sharḥ ma'ānī al-āthār*, 3:221. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17865.

² Set forth by •Ibn Ḥibbān in *al-Ṣaḥīḥ: Kitāb al-siyar* [The Book of Military Expeditions], chapter: "An assertive act of resistance against the head of the state and the method of jihad," 11:109 §4788. •'Abd al-Razzāq in *al-Muṣannaf*, 10:179 §18742. •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 17:164 §434. •al-Bayhaqī in *al-Sunan al-kubrā*, 6:166 §11098.

Reported by Ibn Ḥibbān, ‘Abd al-Razzāq, al-Ṭabarānī and al-Bayhaqī.

١٥/٣٩. وَفِي رِوَايَةٍ عَنْ أَبِي ثَعْلَبَةَ الْحُسَيْنِيِّ قَالَ: نَهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ
النِّسَاءِ وَالْوِلْدَانِ.
رَوَاهُ الطَّبْرَانِيُّ.

39/15. Abū Tha‘laba al-Khushanī reported:

“The Messenger of Allah ﷺ prohibited the killing of women and children.”¹

Reported by al-Ṭabarānī.

• قَالَ الْإِمَامُ السَّرْحَسِيُّ فِي كِتَابِهِ الْمَشْهُورِ «الْمَبْسُوطِ»: قَالَ ﷺ: وَلَا
تَقْتُلُوا وَلِيدًا وَالْوَلِيدُ الْمَوْلُودُ فِي اللُّغَةِ وَكُلُّ أَدَمِيٍّ مَوْلُودٌ، وَلَكِنَّ هَذَا
الْلَفْظُ إِنَّمَا يُسْتَعْمَلُ فِي الصَّغَارِ عَادَةً. فَفِيهِ دَلِيلٌ عَلَى أَنَّهُ لَا يَحِلُّ قَتْلُ
الصَّغَارِ مِنْهُمْ، إِذَا كَانُوا لَا يُقَاتِلُونَ. وَقَدْ جَاءَ فِي الْحَدِيثِ أَنَّ النَّبِيَّ
ﷺ نَهَى عَنْ قَتْلِ النِّسَاءِ وَالْوِلْدَانِ. وَقَالَ: اقْتُلُوا شُيُوخَ الْمُشْرِكِينَ،
وَاسْتَحْيُوا شُرُوحَهُمْ. وَالْمُرَادُ بِالشُّيُوخِ الْبَالِغُونَ وَبِالشُّرُوحِ،
الْآتِبَاعُ مِنَ الصَّغَارِ وَالنِّسَاءِ، وَالْإِسْتِحْيَاءُ الْإِسْتِرْقَاقُ. قَالَ اللَّهُ:
﴿أَسْتَحْيُوا نِسَاءَهُمْ﴾. وَفِي وَصِيَّةِ أَبِي بَكْرٍ ﷺ لِزَيْدِ بْنِ أَبِي سُفْيَانَ:
لَا تَقْتُلْ شَيْخًا ضَرِعًا وَلَا صَبِيًّا ضَعِيفًا، يَعْنِي شَيْخًا فَانِيًا وَصَغِيرًا لَا
يُقَاتِلُ.

Regarding the prohibition of killing non-Muslim women, children and elderly folk during war, the eminent Ḥanafī jurist Imam al-Sarakhsī wrote in his magnum opus, *al-Mabsūt*:

¹ Set forth by •al-Ṭabarānī in *al-Mu‘jam al-awsaṭ*, 7:113 §7011.

The Prophet ﷺ said: "Do not kill children [*walīd*]." In the [Arabic] language, the word *walīd* means the one who is born [*mawlūd*]; and every human being [*ādami*] is born. However, customarily this word is only used for young children. Therefore, it proves that it is impermissible to kill the young children amongst them [the non-Muslims], as long as they are not fighting. It is mentioned in a hadith that the Prophet ﷺ forbade the killing of women and children, and said: "Kill the [warring] elders of the pagans [during war] and keep alive their subordinates." The "elders" refer to the adults amongst them, and the "subordinates" signify their followers amongst the young and the womenfolk. To "keep alive" here means to take them as captives. Allah says, *And they kept their women alive*.¹ And it is mentioned in Abū Bakr's ﷺ dictated commands to Yazīd b. Abī Sufyān: "Kill neither a feeble old man nor a fragile young child"—in other words, an elderly man and a young child do not fight.²

¹ Qur'ān 40:25.

² •Al-Sarakhsī, *al-Mabsūt*, 10:5-6.

الْبَابُ الرَّابِعُ

مَنْعُ قَتْلِ السُّفَرَاءِ وَالزُّرَّاعِ وَالتُّجَّارِ وَغَيْرِ الْمُتَحَارِبِينَ

CHAPTER FOUR

THE UNLAWFULNESS OF KILLING
DIPLOMATS, FARMERS, TRADERS AND
NON-COMBATANTS

٤٠ / ١. عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ (فِي يَوْمِ فَتْحِ مَكَّةَ): مَنْ دَخَلَ دَارَ أَبِي سُفْيَانَ فَهُوَ آمِنٌ، وَمَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ أَعْلَقَ بَابَهُ فَهُوَ آمِنٌ. رَوَاهُ مُسْلِمٌ وَأَبُو دَاوُدَ وَابْنُ بَرَزٍ.

40/1. Abū Hurayra رَضِيَ اللَّهُ عَنْهُ related that Allah's Messenger ﷺ said (on conquering Mecca):

"Whoever enters Abū Sufyān's house is safe, and whoever lays down his weapon is safe, and whoever shuts his door is safe."¹

Reported by Muslim, Abū Dāwūd and al-Bazzār.

٤١ / ٢. عَنْ نَعِيمِ بْنِ مَسْعُودٍ الْأَشْجَعِيِّ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ حِينَ قَرَأَ كِتَابَ مُسَيْلَمَةَ الْكَذَّابِ، قَالَ لِلرَّسُولَيْنِ: فَمَا تَقُولَانِ أَنْتُمَا؟ قَالَا: نَقُولُ كَمَا قَالَ. فَقَالَ رَسُولُ اللَّهِ ﷺ: وَاللَّهِ، لَوْ لَا أَنَّ الرُّسُلَ لَا تُقْتَلُ لَضَرَبْتُ أَعْنَاقَكُمَا.

رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَابْنُ بَرَزٍ. وَقَالَ الْحَاكِمُ: هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ مُسْلِمٍ.

41/2. Na'im b. Mas'ūd al-Ashja'i related:

"I heard Allah's Messenger ﷺ saying to the two envoys after he had read the letter from Musaylama the Liar: 'What do both of you

¹ Set forth by •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Military Expeditions], Chapter: "The Conquest of Mecca," 3:1407 §1780. •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj wa al-imāra wa al-fay* [The Book of Land Tax, Leadership and the Spoils Acquired without Fighting], chapter: "What has been Narrated about Mecca," 3:162 §3021. •al-Bazzār in *al-Musnad*, 4:122 §1292. •al-Dāraqutnī in *al-Sunan*, 3:60 §233. •Abū 'Awāna in *al-Musnad*, 4:290 §6780. •Ibn Rahawayh in *al-Musnad*, 1:300 §278.

say (believe)?' They said: 'We say (believe) what he does.' He said: 'By Allah! Were it not for the fact that envoys are not to be killed, I would have struck your necks!'"¹

Reported by Aḥmad, Abū Dāwūd and al-Ḥākim. Al-Ḥākim said: "This is an authentic tradition in conformity with the stipulation of Muslim."

٣/٤٢. وَفِي رِوَايَةِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ، فَقَالَ لَهُمَا رَسُولُ اللَّهِ ﷺ: أَتَشْهَدَانِ أَنِّي رَسُولُ اللَّهِ؟ قَالَا: نَشْهَدُ أَنَّ مُسْلِمَةَ رَسُولُ اللَّهِ. فَقَالَ: لَوْ كُنْتُ قَاتِلًا رَسُولًا لَصَرَبْتُ أَعْنَاقَكُمْ.

قَالَ: فَجَرَتْ سُنَّةٌ أَنْ لَا يُقْتَلَ الرَّسُولُ.

رَوَاهُ أَحْمَدُ وَالدَّارِمِيُّ وَأَبُو يَعْلَى.

42/3. 'Abd Allāh (b. Mas'ūd) رَضِيَ اللَّهُ عَنْهُ related:

"Allah's Messenger ﷺ asked both envoys ['Abd Allāh b. Nuwāḥa and Ibn Athāl] about Musaylama the Liar: 'Do you bear witness that I am Allah's Messenger?' They said: 'We bear witness that Musaylama is the Messenger of Allah!' The Messenger ﷺ of Allah said: 'Were I to execute envoys, I would have executed you!'"

The transmitter said: "From that day forward, the rule was that no envoy was to be killed."²

Reported by Aḥmad, al-Dārimī and Abū Ya'lā.

٤/٤٣. وَفِي رِوَايَةٍ عَنْهُ قَالَ: فَقَالَ النَّبِيُّ ﷺ: آمَنْتُ بِاللَّهِ وَرَسُولِهِ. لَوْ كُنْتُ قَاتِلًا رَسُولًا لَقَتَلْتُكُمْ. قَالَ عَبْدُ اللَّهِ: قَالَ: فَمَضَتْ السُّنَّةُ أَنَّ الرَّسُولَ لَا يُقْتَلُ.

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 3:487 §16032. •Abū Dāwūd in *al-Sunan*, chapter: "On Envoys," 3:83 §2761. •al-Ḥākim in *al-Mustadrak 'alā al-Ṣaḥīḥayn*, 2:155 §2632 and 3:54 §4377.

² Set forth by •Aḥmad b. anbal in *al-Musnad*, 1:390 §3708 and 1:404 §3837. •al-Nasā'ī in *al-Sunan al-kubrā*, 5:205 §8675. •al-Dārimī in *al-Sunan*, 2:307 §2503. •Abū Ya'lā in *al-Musnad*, 9:31 §5097.

رَوَاهُ أَحْمَدُ وَالطَّبَايِسِيُّ وَذَكَرَهُ ابْنُ الْقَيْمِ.

43/4. ‘Abd Allāh b. Mas‘ūd رَضِيَ اللَّهُ عَنْهُ related:

“The Prophet ﷺ said: ‘I believe in Allah ﷻ and His Messengers. Had it been permissible for me to slay envoys, I would have executed both of you [the two envoys of Musaylama the Liar (due to the denigration they had perpetrated)].’”¹ According to ‘Abd Allāh b. Mas‘ūd, from that day forward, the rule was that no envoy was to be killed.

Reported by Aḥmad and al-Ṭayālīsī, and cited by Ibn al-Qayyim.

٥ / ٤٤ . عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ، قَالَ: كَانُوا لَا يَقْتُلُونَ تِجَارَ الْمُشْرِكِينَ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَالْبَيْهَقِيُّ.

44/5. Jābir b. ‘Abd Allāh رَضِيَ اللَّهُ عَنْهُ said:

“They [the Muslim soldiers] did not kill the merchants amongst the pagans.”²

Reported by Ibn Abī Shayba and al-Bayhaqī.

٦ / ٤٥ . عَنْ زَيْدِ بْنِ وَهْبٍ قَالَ: أَتَانَا كِتَابُ عُمَرَ: لَا تَغْلُوا وَلَا تَغْدِرُوا، وَلَا تَقْتُلُوا

وَلِيدًا، وَاتَّقُوا اللَّهَ فِي الْفَلَاحِينَ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَابْنُ آدَمَ الْقُرَشِيُّ.

45/6. Zayd b. Wahb related that ‘Umar رَضِيَ اللَّهُ عَنْهُ sent them [the Muslim forces] a letter in which he said:

“Do not take anything without right when distributing the spoils

¹ Set forth by •Aḥmad in *al-Musnad*, 1:396 §3761. •al-Ṭayālīsī in *al-Musnad*, 1:34 §251. Cited by •Ibn al-Qayyim in *Zād al-ma‘ād*, 3:611.

² Set forth by •Ibn Abī Shayba in *al-Muṣannaḥ*, 6:484 §33129. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §17939. Cited by •Ibn Ādam al-Qurashī in *Kitāb al-Kharāj*, 1:52 §133.

of war, and do not commit any treachery or kill children. And fear Allah regarding farmers.”¹

Reported by Ibn Abī Shayba and Ibn Adam al-Qurashī.

٧ / ٤٦. وَفِي رِوَايَةٍ عَنْهُ، أَنَّهُ قَالَ: اتَّقُوا اللَّهَ فِي الْفَلَاحِينِ، فَلَا تَقْتُلُوهُمْ إِلَّا أَنْ يَنْصَبُوا لَكُمْ الْحَرْبَ.

رَوَاهُ الْبَيْهَقِيُّ.

46/7. In one report from Zayd b. Wahb, ‘Umar رضي الله عنه said:

“Fear Allah regarding the farmers and do not kill them unless they wage war against you.”²

Reported by al-Bayhaqī.

٨ / ٤٧. عَنْ ابْنِ عَبَّاسٍ رضي الله عنه، أَنَّ النَّبِيَّ ﷺ كَانَ إِذَا بَعَثَ جُيُوشَهُ قَالَ: لَا تَقْتُلُوا أَصْحَابَ الصَّوَامِعِ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَأَبُو يَعْلَى وَالطَّحَاوِيُّ وَالْدَّيْلَمِيُّ.

47/8. (‘Abd Allāh) b. ‘Abbās رضي الله عنه related:

“When the Prophet ﷺ sent his troops, he would enjoin: ‘Do not kill those (priests) who tend to the monasteries.’”³

Reported by Ibn Abī Shayba, Abū Ya‘lā, al-Ṭaḥāwī, and al-Daylamī.

٩ / ٤٨. وَفِي رِوَايَةٍ ثَابِتِ بْنِ الْحَجَّاجِ الْكِلَابِيِّ قَالَ: قَامَ أَبُو بَكْرٍ فِي النَّاسِ، فَحَمَدَ اللَّهُ وَأَثْنَى عَلَيْهِ، ثُمَّ قَالَ: أَلَا لَا يُقْتَلُ الرَّاهِبُ فِي الصَّوْمَعَةِ.

¹ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33120. Cited by •Ibn Adam al-Qurashī in *Kitāb al-Kharāj*, 1:52 §132.

² Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §17938.

³ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 5:59 §2650. •al-Ṭaḥāwī in *Sharḥ ma‘ānī al-āthār*, 3:225. •al-Daylamī in *Musnad al-firdaws*, 5:45 §7410.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

48/9. According to Thābit b. al-Ḥajjāj al-Kilābī, Abū Bakr ﷺ stood up among the people, praised and glorified Allah and said (to people):
 “Beware! No [non-combatant] priest tending to his monastery should be killed.”¹

Reported by Ibn Abī Shayba.

١٠/٤٩. وَفِي رِوَايَةِ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ أَبَا بَكْرٍ ﷺ لَمَّا بَعَثَ الْجُنُودَ نَحْوَ الشَّامِ قَالَ: لَمَّا رَكِبُوا، مَشَى أَبُو بَكْرٍ مَعَ أَمْرَاءِ جُنُودِهِ يُودِّعُهُمْ حَتَّى بَلَغَ ثِنْيَةَ الْوَدَاعِ، فَقَالُوا: يَا خَلِيفَةَ رَسُولِ اللَّهِ، اأَتَمْنِي وَنَحْنُ رُكْبَانُ؟ فَقَالَ: إِنِّي أَخْتَسِبُ خُطَايَا هَذِهِ فِي سَبِيلِ اللَّهِ ثُمَّ جَعَلَ يُوَصِّيهُمْ. فَقَالَ: أَوْصِيكُمْ بِتَقْوَى اللَّهِ. اغْزُوا فِي سَبِيلِ اللَّهِ فَقَاتِلُوا مَنْ كَفَرَ بِاللَّهِ فَإِنَّ اللَّهَ نَاصِرُ دِينِهِ، وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا الشُّيُوخَ وَلَا النِّسَاءَ وَاسْتَجِدُّوْنَ أَقْوَامًا حَبَسُوا أَنْفُسَهُمْ فِي الصَّوَامِعِ فَدَعُوهُمْ وَمَا حَبَسُوا أَنْفُسَهُمْ لَهُ.
 رَوَاهُ الْبَيْهَقِيُّ وَالطَّحَاوِيُّ وَابْنُ عَسَاكِرَ وَذَكَرَهُ الْهِنْدِيُّ.

49/10. Saʿīd b. al-Musayyib related:

“When Abū Bakr al-Ṣiddīq ﷺ dispatched an army towards Syria, he came walking with the commanders of the army until he reached the mountains to bid them farewell. At that time, the commander said: ‘O successor of Allah’s Messenger! (Is it not against reverence for us that) you walk while we are riding?’ He said: ‘I count these steps of mine in the way of Allah.’ Then he instructed the army: ‘I enjoin you to fear Allah (in every matter), fight (against the oppressors) for the cause of Allah and strive face-to-face with the disbelievers. Indeed, Allah helps His *Dīn* [religion]. Do not kill any children or elderly people or women. You shall come upon a people who have secluded themselves in cloisters; you must leave them to engage in that for whose sake they

¹ Set forth by Ibn Abī Shayba in *al-Muṣannaḥ*, 6:483 §33127.

have secluded themselves.”¹

Reported by al-Bayhaqī, al-Ṭaḥāwī, and Ibn ‘Asākir, and cited by al-Hindī.

١١/٥٠. وَفِي رِوَايَةِ صَالِحِ بْنِ كَيْسَانَ قَالَ: لَمَّا بَعَثَ أَبُو بَكْرٍ رضي الله عنه يَزِيدَ بْنَ أَبِي سُفْيَانَ إِلَى الشَّامِ فَقَالَ (لَهُ): وَلَا تَقْتُلُوا كَبِيرًا هَرِمًا وَلَا امْرَأَةً وَلَا وَلِيدًا وَلَا تُخْرِبُوا عُمُرَانَا وَلَا تَقْطَعُوا شَجَرَةً إِلَّا لِنَفْعٍ وَلَا تَعْقِرَنَّ بَهِيمَةً إِلَّا لِنَفْعٍ وَلَا تُحْرِقَنَّ نَخْلًا وَلَا تُغْرِقَنَّهُ وَلَا تَغْدِرْ وَلَا تُمَثِّلْ وَلَا تَحْجِبَنَّ وَلَا تَغْلُلْ.
رَوَاهُ الْيَهُودِيُّ.

50/11. According to Ṣāliḥ b. Kaysān, when Abū Bakr al-Siddīq رضي الله عنه dispatched Yazīd b. Abī Sufyān (and the Muslim troops to Syria), he addressed them:

“Do not kill an old, feeble man or a woman or a child. Do not damage any populated area. Do not cut down trees needlessly. Do not kill animals unless it is for a benefit [to feed others]. Do not burn down date-palm trees or destroy them. Do not commit any treachery. Do not mutilate (anyone). Do not behave cowardly. And do not take anything without right when distributing the spoils of war.”²

Reported by al-Bayhaqī.

١٢/٥١. وَفِي رِوَايَةٍ: قَالَ عَلِيُّ بْنُ أَبِي طَالِبٍ رضي الله عنه: لَا يُدْفَقُ عَلَى جَرِيحٍ، وَلَا يُقْتَلُ أَسِيرٌ، وَلَا يُتَّبَعُ مُدْبِرٌ.
رَوَاهُ عَبْدُ الرَّزَّاقِ.

51/12. Alī b. Abī Ṭālib رضي الله عنه said:

¹ Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:85 §17904. •al-Ṭaḥāwī in *Sharḥ Mushkil al-āthār*, 3:144. •Ibn ‘Asākir in *Tārīkh Madīna Dimashq*, 2:75. Cited by •al-Hindī in *Kanz al-‘ummāl*, 4:203 §11408.

² Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:90 §17929.

"The injured person or prisoner should not be killed, nor should be chased those who flee."¹

Reported by 'Abd al-Razzāq.

١٣/٥٢. وَفِي رِوَايَةٍ عَنْ جُوَيْرٍ قَالَ: أَخْبَرَنِي امْرَأَةٌ مِنْ بَنِي أَسَدٍ قَالَتْ: سَمِعْتُ عَمَّارًا بَعْدَ مَا فَرَعَ عَلِيٌّ مِنْ أَصْحَابِ الْجَمَلِ يُنَادِي: لَا تَقْتُلُوا مُقْبِلًا، وَلَا مُدْبِرًا، وَلَا تُدْفِنُوا عَلَى جَرِيحٍ، وَلَا تَدْخُلُوا دَارًا. مَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ أَغْلَقَ بَابَهُ فَهُوَ آمِنٌ.

رَوَاهُ عَبْدُ الرَّزَّاقِ.

52/13. Juwaybir related that a woman from the tribe of Banū Asad told him that she heard 'Ammār ؓ declare after 'Alī ؓ had finished the Battle of the Camel:

"Do not kill anyone coming up or going back; do not kill an injured person; and do not enter the house of someone who has laid down his arms, for he is considered safe. Similarly, the one who shuts his door is considered safe."²

Reported by 'Abd al-Razzāq.

• قَالَ الْإِمَامُ الْأَوْزَاعِيُّ: لَا يُقْتَلُ الْحُرَّاتُ إِذَا عَلِمَ أَنَّهُ لَيْسَ مِنَ الْمُقَاتِلَةِ.

Imam al-Awzā'ī said: "Farmers are not to be killed [during war] if it is known that they are not from the combatants."³

• قَالَ الْإِمَامُ ابْنُ الْقَدَّامَةِ الْمَقْدِسِيُّ: فَأَمَّا الْفَلَّاحُ الَّذِي لَا يُقَاتِلُ فَيَنْبَغِي أَلَّا يُقْتَلَ، لِمَا رَوِيَ عَنْ عُمَرَ بْنِ الْخَطَّابِ ؓ أَنَّهُ قَالَ: اتَّقُوا اللَّهَ فِي

¹ Set forth by •'Abd al-Razzāq in *al-Muṣannaf*, 10:123 §18590.

² Set forth by •'Abd al-Razzāq in *al-Muṣannaf*, 10:124 §18591.

³ Cited by •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:165.

الْفَلَاحِينَ، الَّذِينَ لَا يَنْصِبُونَ لَكُمْ فِي الْحَرْبِ.

Ibn Qudāma al-Maqdisī said: "As for the farmer who is a non-combatant, he should not be killed, because it was narrated from 'Umar b. al-Khaṭṭāb رضي الله عنه that he said: 'Fear Allah regarding the farmers who do not wage war against you.'"¹

• قَالَ الْعَلَّامَةُ ابْنُ الْقَيِّمِ: فَإِنَّ أَصْحَابَ النَّبِيِّ ﷺ لَمْ يَقْتُلُوهُمْ حِينَ فَتَحُوا الْبِلَادَ، وَلَئِنَّهُمْ لَا يُقَاتِلُونَ، فَأَشْبَهُوا الشُّيُوخَ وَالرُّهْبَانَ.

Ibn al-Qayyim said: "Indeed, when the Companions of the Prophet ﷺ conquered the various lands, they did not kill them [farmers and merchants] because the latter did not fight [against them], and so in that sense they [the civilians] resembled the elderly and the religious leaders."²

• وَقَالَ الْعَلَّامَةُ ابْنُ الْقَيِّمِ: وَإِنَّ الْعَبْدَ مُحَقَّقُ الدِّمِّ فَأَشْبَهَ النِّسَاءَ وَالصِّبْيَانَ.

Ibn al-Qayyim also said: "Like the women and children, the servants who work at home are also safe from bloodshed."³

¹ • Ibn Qudāma al-Maqdisī, *al-Mughnī*, 9:251.

² • Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:165.

³ Ibid., 1:172.

الْبَابُ الْخَامِسُ

حُرِّيَّةُ مَذْهَبِهِمْ وَعَقَائِدِهِمْ

CHAPTER FIVE

FREEDOM OF FAITH AND BELIEFS
FOR NON-MUSLIMS

١. ﴿لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ﴾

1. *There is no compulsion in Dīn (Religion). Surely, the guidance has been evidently distinguished from error.*¹

٢. ﴿وَلَا تَسُبُّوا الَّذِينَ يَدْعُونَ مِنْ دُونِ اللَّهِ فَيَسُبُّوا اللَّهَ عَدْوًا بِغَيْرِ

عِلْمٍ﴾

2. *And, (O Muslims,) do not abuse these (false gods) that these (polytheists) worship besides Allah, lest these people should (also, in retaliation,) revile against Allah's Glory wrongfully due to ignorance.*²

٣. ﴿قُلْ يَٰٓأَهْلَ ٱلْكِتَٰبِ تَعَالَوْا۟ إِلَىٰ كَلِمَةٍ سَوَآءٍ بَيْنَنَا وَبَيْنَكُمْ أَلَّا نَعْبُدَ

إِلَّا ٱللَّهَ وَلَا نُشْرِكَ بِهِۦ شَيْئًا وَلَا يَتَّخِذَ بَعْضُنَا بَعْضًا أَرْبَابًا مِّنْ دُونِ ٱللَّهِ

فَإِنْ تَوَلَّوْا۟ فَقُولُوا۟ أَشْهَدُوا۟ بِأَنَّا مُسْلِمُونَ﴾

3. *Say: "O People of the Book, come to that matter which is common between us and you (namely that): we shall worship none other than Allah, and we shall not associate any partner with Him. Nor shall any of us take one another as Lords apart from Allah." Then if they turn away, say: "Bear witness that we are but Allah's obedient servants (Muslims)."*³

¹ Qur'ān 2:256.

² Ibid., 6:108.

³ Ibid., 3:64.

٤. ﴿وَلَا تَكْسِبُ كُلُّ نَفْسٍ إِلَّا عَلَيْهَا وَلَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَىٰ﴾

4. *And whatever (sin) each soul earns, (its evil outcome) falls back upon it. And no bearer of burden will bear another's burden.* ¹

٥. ﴿وَلَوْ شَاءَ رَبُّكَ لَآمَنَ مِنَ فِي الْأَرْضِ كُلُّهُمْ جَمِيعًا أَفَأَنْتَ تُكْرَهُ
الْنَّاسَ حَتَّىٰ يَكُونُوا مُؤْمِنِينَ﴾

5. *And had Allah so willed, certainly all inhabitants on the earth would have believed. (When your Lord has not made them believe by force,) will you coerce the people until they become believers?* ²

٦. ﴿وَقُلِ الْحَقُّ مِنْ رَبِّكُمْ فَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ إِنَّا
أَعْتَدْنَا لِلظَّالِمِينَ نَارًا﴾

6. *And say: "(This) truth is from your Lord. So whoever desires may believe and whoever desires may deny." Indeed, We have prepared for the wrongdoers the Fire (of Hell).* ³

٧. ﴿وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَهَدَمَتْ صَوَامِعُ وَبِيَعٌ
وَصَلَوَاتٌ وَمَسَاجِدُ يُذْكَرُ فِيهَا اسْمُ اللَّهِ كَثِيرًا﴾

7. *And had Allah not been repelling one class of human society by the other (through progressive struggle and persistent toil), the cloisters, synagogues, churches and mosques (i.e., religious centres and places of worship of all religions) would have been ruined where Allah's Name is*

¹ Ibid., 6:164.

² Ibid., 10:99.

³ Ibid., 18:29.

abundantly commemorated. ﴿¹

٨. ﴿فَذَكِّرْ إِنَّمَا أَنْتَ مُذَكِّرٌ ۖ لَسْتَ عَلَيْهِمْ بِمُصَيْطِرٍ﴾

8. ﴿So, continuously admonish them, for you are but an admonisher. You are not imposed upon them (as) an oppressor and persecutor.﴾²

٩. ﴿لَكُمْ دِينُكُمْ وَلِيَ دِينِ﴾

9. ﴿(So) you have your dīn (religion), and I have my Dīn (Religion).﴾³

HADITH

٥٣/١. عَنْ عِدَّةٍ (وعند البيهقي: عَنْ ثَلَاثِينَ) مِنْ أَبْنَاءِ أَصْحَابِ رَسُولِ اللَّهِ ﷺ، عَنْ آبَائِهِمْ دِينَهُ، عَنْ رَسُولِ اللَّهِ ﷺ قَالَ: أَلَا مَنْ ظَلَمَ مُعَاهِدًا، أَوْ انْتَقَصَهُ، أَوْ كَلَفَهُ فَوْقَ طَاقَتِهِ، أَوْ أَخَذَ مِنْهُ شَيْئًا بَغَيْرِ طَيْبِ نَفْسٍ فَأَنَا حَاجِبُهُ يَوْمَ الْقِيَامَةِ. رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي شَيْبَةَ وَذَكَرَهُ الْمُنْذِرِيُّ وَالْعَجْلُونِيُّ وَقَالَ الْعَجْلُونِيُّ: إِسْنَادُهُ حَسَنٌ.

53/1. It is related by a number of the Companions' sons (about thirty of their sons, as reported by al-Bayhaqī), on the authority of their nearest relatives, that Allah's Messenger ﷺ said:

"Beware! Whoever wrongs a non-Muslim citizen, or diminishes any of his (religious, social, economic, political and cultural) rights, or loads him with more (work) than he can bear, or takes anything from him without his consent, I shall plead on his [the latter's] behalf on the Day of Resurrection."⁴

¹ Ibid., 22:40.

² Ibid., 88:21-22.

³ Ibid., 109:6.

⁴ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj wa al-imāra wa al-*

Reported by Abū Dāwūd and Bayhaqī and cited by al-Mundhirī and al-ʿAjlūnī. According to al-ʿAjlūnī: "It has a fine chain of transmission."

٢/٥٤. عَنْ ابْنِ إِسْحَاقَ قَالَ: وَفَدَ عَلَى رَسُولِ اللَّهِ وَفَدُ نَصَارَى نَجْرَانَ بِالْمَدِينَةِ حَدَّثَنِي مُحَمَّدُ بْنُ جَعْفَرٍ بْنِ النَّدَى قَالَ: لَمَّا قَدِمَ وَفَدُ نَجْرَانَ عَلَى رَسُولِ اللَّهِ دَخَلُوا عَلَيْهِ مَسْجِدَهُ بَعْدَ الْعَصْرِ، فَحَانَتْ صَلَاتُهُمْ، فَقَامُوا يُصَلُّونَ فِي مَسْجِدِهِ، فَأَرَادَ النَّاسُ مَنَعَهُمْ، فَقَالَ رَسُولُ اللَّهِ: دَعُوهُمْ فَاسْتَقْبَلُوا الْمَشْرِقَ فَصَلُّوا صَلَاتَهُمْ. رَوَاهُ الْبَيْهَقِيُّ وَابْنُ سَعْدٍ وَابْنُ هِشَامٍ.

54/2. According to Ibn Ishāq:

"A Christian delegation from Najrān came to meet Allah's Messenger ﷺ in Medina. Muhammad b. Jaʿfar b. al-Nadā b. al-Nadā said that they reached the Prophet's mosque after the ʿAṣr prayer. It was their prayer time so they stood up in the Prophet's mosque to perform their religious service. People tried to stop them but the Messenger of Allah ﷺ said: 'Leave them be.' They faced eastward and performed their rituals (prayers)."¹

Reported by al-Bayhaqī, Ibn Saʿd and Ibn Hishām.

٣/٥٥. عَنْ عُبَيْدِ اللَّهِ ابْنِ أَبِي حُمَيْدٍ، عَنْ أَبِي الْمَلِيحِ الْهَدَلِيِّ أَنَّ رَسُولَ اللَّهِ صَلَّى أَهْلَ نَجْرَانَ وَكَتَبَ لَهُمْ كِتَابًا (فَمِنْهُ) وَلِنَجْرَانَ وَحَاشِيَتِهَا ذِمَّةُ اللَّهِ وَذِمَّةُ مُحَمَّدٍ النَّبِيِّ رَسُولِ اللَّهِ، عَلَى دِمَائِهِمْ وَأَنْفُسِهِمْ وَأَرْضِهِمْ وَأَمْوَالِهِمْ وَمِلَّتِهِمْ وَرَهْبَانِيَّتِهِمْ

fay' [The Book on the Land Tax, Leadership and Spoils Acquired without Fighting], chapter: "Taking One Tenth from Non-Muslim Citizens When They Do Business," 3:170 §3052. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:205 §18511. •al-Mundhirī in *al-Targhib wa al-tarhib*, 4:7 §4558. •al-ʿAjlūnī in *Kashf al-khafāʾ*, 2:342.

¹ Set forth by •al-Bayhaqī in *Dalā'il al-Nubuwwa*, 5:382. •Ibn Saʿd in *al-Tabaqāt al-kubrā*, 1:357. •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:239–240. •Ibn Kathīr in *al-Sīra*, 4:108. •Ibn Qayyim in *Zād al-maʿād*, 3:629.

وَأَسَافَتِهِمْ وَغَائِبِهِمْ وَشَاهِدِهِمْ وَبَعْثِهِمْ وَأَمْثَلَتِهِمْ، لَا يُعَيَّرُ مَا كَانُوا عَلَيْهِ، وَلَا يُعَيَّرُ
حَقٌّ مِنْ حُقُوقِهِمْ وَأَمْثَلَتِهِمْ، لَا يُقْتَنُ أُسْقُفٌ مِنْ أُسْقُفِيَّتِهِ، وَلَا رَاهِبٌ مِنْ رَهْبَانِيَّتِهِ،
وَلَا وَاقِفٌ مِنْ وَقَافِيَّتِهِ، عَلَى مَا تَحْتَ أَيْدِيهِمْ مِنْ قَلِيلٍ أَوْ كَثِيرٍ، وَلَيْسَ عَلَيْهِمْ رَهَقٌ.
رَوَاهُ الْبَيْهَقِيُّ وَابْنُ سَعْدٍ وَذَكَرَهُ كَثِيرٌ مِنَ الْأَئِمَّةِ.

55/3. 'Ubayd Allah b. Abī Ḥumayd reported on the authority of Abū al-Maliḥ al-Hudhalī that when Allah's Messenger ﷺ reconciled with the people of Najrān, he concluded an agreement with them (in which it was written):

"Indeed, Najrān and her allies are under the guarantee and protection of Allah ﷻ and Allah's Messenger ﷺ in regard to their blood, lives, lands, assets and religion. This includes their priests, monks, those who are present amongst them and those who are absent, and others amongst them, and their delegations and the like. They shall not be forced to change their faith and no right of theirs shall be forfeited. No monk, priest or attendant amongst them should lose what is in his possession, be it plentiful or scarce, and no fear or danger should threaten them."¹

Reported by al-Bayhaqī, Ibn Sa'd and cited by many imams.

٤/٥٦. عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ أَبَا بَكْرٍ رَضِيَ اللَّهُ عَنْهُ لَمَّا بَعَثَ الْجُنُودَ نَحْوَ الشَّامِ
يَزِيدَ بْنَ أَبِي سَفْيَانَ وَعَمْرُو بْنَ الْعَاصِ وَشُرَحْبِيلَ بْنَ حَسَنَةَ، جَعَلَ يُوصِيهِمْ
فَقَالَ: وَلَا تُغْرِقَنَّ نَخْلًا وَلَا تُحْرِقَنَّهَا وَلَا تَعْقِرُوا بِهِمَةَ وَلَا شَجَرَةً تُثْمِرُ وَلَا تَهْدُمُوا
بَيْعَةً وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا الشُّيُوخَ وَلَا النِّسَاءَ وَتَسْجِدُونَ أَقْوَامًا حَبَسُوا أَنْفُسَهُمْ
فِي الصَّوَامِعِ فَدَعُوهُمْ وَمَا حَبَسُوا أَنْفُسَهُمْ لَهُ.

¹ Set forth by •al-Bayhaqī in *Dalā'il al-Nubuwwa*, 5:359, 389. •Ibn Sa'd in *al-Ṭabaqāt al-kubrā*, 1:288, 358. •Abū Yūsuf in *Kitāb al-kharāj*, p. 78. •Abū 'Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, pp. 244-245 §503. •Ibn Zanjawayh in *Kitāb al-amwāl*, pp. 449-450 §732.

رَوَاهُ الْبَيْهَقِيُّ وَالطَّحَاوِيُّ وَابْنُ عَسَاكِرَ وَذَكَرَهُ الْهَنْدِيُّ.

56/4. According to Sa'īd b. al-Musayyab رحمته الله, Abū Bakr al-Ṣiddīq رحمته الله directed Yazīd b. Abī Sufyān, 'Amr b. al-ʿĀṣ and Shuraḥbīl b. asana as he was sending them to Syria:

"Do not drown or burn date-palm trees. Do not kill any animal. Do not cut down a fruit-bearing tree. Do not demolish a church. Do not kill any children or old people or women. Soon you shall come upon people who have secluded themselves in cloisters; you must leave them to engage in that for which they have secluded themselves."¹

Reported by al-Bayhaqī, al-Taḥāwī, Ibn 'Asākir and cited by al-Hindī.

٥٧ / ٥. وَرَوِيَ مِثْلُهُ لِعُمَرَ بْنِ الْخَطَّابِ رحمته الله كَمَا ذَكَرَهُ الطَّبْرِيُّ فِي تَارِيخِهِ: هَذَا مَا أَعْطَى عَبْدُ اللَّهِ عُمَرُ أَمِيرُ الْمُؤْمِنِينَ أَهْلَ إِبِلْيَاءَ مِنَ الْأَمَانِ، أَعْطَاهُمْ أَمَانًا لَا أَنْفُسِهِمْ وَأَمْوَالِهِمْ وَلَكِنَّا سِيَهُمْ وَصُلْبَانِهِمْ، وَسَقِيمِيهَا وَبَرِيئِيهَا وَسَائِرِ مِلَّتِهَا، أَنَّهُ لَا تُسَكَّنُ كِنَائِسُهُمْ وَلَا تُهْدَمُ وَلَا يُتَقَصُّ مِنْهَا وَلَا مِنْ حَبِيرِهَا، وَلَا مِنْ صَلْبِيهِمْ، وَلَا مِنْ شَيْءٍ مِنْ أَمْوَالِهِمْ، وَلَا يُكْرَهُونَ عَلَى دِينِهِمْ، وَلَا يُضَارُّ أَحَدٌ مِنْهُمْ، وَلَا يُسَكَّنُ بِإِبِلْيَاءَ مَعَهُمْ أَحَدٌ مِنَ الْيَهُودِ.

57/5. A similar report has been reported from 'Umar b. al-Khaṭṭāb رحمته الله as has been narrated by al-Ṭabarī in *Tārīkh al-umam wa al-mulūk*:

"This is the covenant of security and protection from the servant of Allah, 'Umar, the Commander of the Faithful, to the people of Jerusalem. He grants them security in their lives, properties, churches, crucifixes and to their ill and their healthy and their entire religious community. Their churches are not to be occupied, demolished or decreased in number. Their churches or crucifixes should not be desecrated, or anything else of their property. They are not to be

¹ Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:85 §17904. •al-Taḥāwī in *Sharḥ Mushkil al-āthār*, 3:144. •Ibn 'Asākir in *Tārīkh Madina Dimashq*, 2:75. Cited by •al-Hindī in *Kanz al-'ummāl*, 4:203 §11408.

proselytized, and no one amongst them is to be harmed in any way. And none of the Jews are to reside with them in Jerusalem [due to the severe enmity between them in those days].”¹

٦/٥٨. عَنْ عِكْرَمَةَ رَضِيَ اللَّهُ عَنْهُ، قَالَ: قِيلَ لِابْنِ عَبَّاسٍ: أَلِلْعَجَمُ أَنْ يُحْدِثُوا فِي أَمْصَارِ الْمُسْلِمِينَ بِنَاءً أَوْ بَيْعَةً؟ فَقَالَ: أَيُّمَا مِصْرٍ مَصْرَتُهُ الْعَرَبُ فَلَيْسَ لِلْعَجَمِ أَنْ يَبْنُوا فِيهِ بِنَاءً، أَوْ قَالَ: بَيْعَةً، وَلَا يَصْرِبُوا فِيهِ نَاقُوسًا، وَلَا يَشْرَبُوا فِيهِ خَمْرًا، وَلَا يَتَّخِذُوا فِيهِ خَنْزِيرًا أَوْ يُدْخِلُوا فِيهِ، أَيُّمَا مِصْرٍ مَصْرَتُهُ الْعَجَمُ يَفْتَحُهُ اللَّهُ عَلَى الْعَرَبِ وَنَزَلُوا يَعْنِي عَلَى حُكْمِهِمْ فَلِلْعَجَمِ مَا فِي عَهْدِهِمْ، وَلِلْعَجَمِ عَلَى الْعَرَبِ أَنْ يُؤَفُوا بِعَهْدِهِمْ وَلَا يَكْلَفُوهُمْ فَوْقَ طَاقَتِهِمْ.

رَوَاهُ ابْنُ أَبِي شَيْبَةَ وَالْبَيْهَقِيُّ وَابْنُ رَجَوَيْهِ وَذَكَرَهُ ابْنُ قَدَامَةَ وَالْمَقْدِسِيُّ.

58/6. 'Ikrima related that ('Abd Allāh) b. 'Abbās رَضِيَ اللَّهُ عَنْهُ was asked:

“Is it permissible for non-Muslim citizens to construct new houses and places of worship in Muslim cities?” He said: “The cities that are raised by Muslims, therein the non-Muslim citizens do not have the right to build a new house or a place of worship or to ring the bell (to summon the congregation) or drink alcohol or farm pigs. As for the rest of the cities raised by non-Muslims that Allah conquered at the hands of Muslims and they embraced obedience to (Arab) Muslims, there they have the same rights as settled in the covenant of protection. And it is binding on the Arabs to fulfil the rights of non-Arabs and the latter should also not be burdened beyond their capacity.”²

Reported by Ibn Abī Shayba, al-Bayhaqī, Ibn Zanjawayh and

¹ •Al-Ṭabarī, *Tārīkh al-umam wa al-mulūk*, 2:449.

² Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:467 §32982. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:202 §18496. •Ibn Zanjawayh in *Kitāb al-amwāl*, p. 328. •Ibn Qudāma in *al-Mughnī*, 9:283. •al-Maqdisī in *al-Furū'*, 6:250. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 3:1181, 1195, 1235. •Ibn Ḍawwān in *Manār al-sabīl*, 1:283.

cited by Ibn Qudāma and al-Maqdisī.

٧/٥٩. وَرَوَى مِثْلَهُ لِعُمَرَ بْنِ عَبْدِ الْعَزِيزِ كَمَا ذَكَرَهُ الْبَلَاذِرِيُّ: فَلَمَّا اسْتَخْلَفَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ رضي الله عنه، شَكَى النَّصَارَى إِلَيْهِ مَا فَعَلَ الْوَلِيدُ بِهِمْ فِي كُنَيْسَتِهِمْ، فَكَتَبَ إِلَى عَامِلِهِ يَا أُمْرُؤُ بَرِّدْ مَا زَادَهُ فِي الْمَسْجِدِ.

59/7. Al-Balādhurī related about ‘Umar b. ‘Abd al-‘Azīz:

“When ‘Umar b. ‘Abd al-‘Azīz رضي الله عنه became the Caliph, the Christians complained to him about al-Walīd’s seizure of church property. He dictated orders to his governor there, commanding him to return to them the portion of the church that was added to the mosque. [It was implemented.]”¹

• قَالَ الْحَافِظُ ابْنُ كَثِيرٍ فِي تَفْسِيرِ الْآيَةِ ﴿لَا إِكْرَاهَ فِي الدِّينِ﴾: لَا تُكْرِهُوا أَحَدًا عَلَى الدُّخُولِ فِي دِينِ الْإِسْلَامِ، فَإِنَّهُ بَيِّنٌ وَاضِحٌ جَلِيٌّ دَلَالَتُهُ وَبَرَاهِينُهُ. لَا يَحْتَاجُ إِلَى أَنْ يُكْرَهَ أَحَدٌ عَلَى الدُّخُولِ فِيهِ.

Ibn Kathīr explained this Qur’ānic verse: *«There is no compulsion in Dīn (Religion).»*² in the following words: “Do not coerce anyone to embrace the religion of Islam, for its proofs and evidence are clear, obvious and manifest. There is no need for anyone to be coerced into embracing it.”³

• ذَكَرَ الْإِمَامُ أَبُو بَكْرٍ الْجَصَّاصُ فِي ‘أَحْكَامِ الْقُرْآنِ‘ قَوْلَ الْإِمَامِ حَسَنِ الْبَصْرِيِّ فِي تَفْسِيرِ الْآيَةِ: ﴿وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَهْذِمَتْ صَوْمِعُ وَيَبِعُ وَصَلَوَاتُ وَمَسْجِدُ يُذْكَرُ فِيهَا اسْمُ اللَّهِ كَثِيرًا﴾. يَدْفَعُ عَنْ هَذِهِ مُصَلِّيَاتِ أَهْلِ الدِّمَةِ بِالْمُؤْمِنِينَ.

¹ • Al-Balādhurī, *Futūḥ al-buldān*, p. 132.

² Qur’ān 2:256.

³ • Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, 1:310.

In his commentary on the verse *And had Allah not been repelling one class of human society by the other (through progressive struggle and persistent toil), the cloisters, synagogues, churches and mosques (i.e., religious centres and places of worship of all religions) would have been ruined where Allah's Name is abundantly commemorated.*¹, Imam Abū Bakr al-Jaṣṣāṣ quoted the words of Imam al-Ḥasan al-Baṣrī: "Allah uses the believers as a means to prevent the destruction of the places of worship belonging to the non-Muslim citizens."²

• وَيَزِدَادُ الْإِمَامُ أَبُو بَكْرٍ الْجَصَّاصُ فِي تَفْسِيرِ الْآيَةِ السَّابِقَةِ: فِي الْآيَةِ دَلِيلٌ عَلَى أَنَّ هَذِهِ الْمَوَاضِعَ الْمَذْكُورَةَ لَا يَجُوزُ أَنْ تُهْدَمَ عَلَى مَنْ كَانَ لَهُ ذِمَّةٌ أَوْ عَهْدٌ مِنَ الْكُفَّارِ.

Imam Abū Bakr al-Jaṣṣāṣ continued: "Within this verse is a proof that it is impermissible to destroy the aforementioned places of worship belonging to those of the non-Muslims who are citizens or under a guarantee of protection."³

So in other words, it is the responsibility of the Islamic state to provide them complete protection in all circumstances. Every community safeguards its own values and culture and it is their right to do so. So the Muslims have been ordered to protect the places of worship belonging to the non-Muslims, despite religious differences.

• قَالَ الْعَلَّامَةُ ابْنُ الْقَيِّمِ فِي كِتَابِهِ 'أَحْكَامُ أَهْلِ الذِّمَّةِ': يَدْفَعُ عَنْ مَوَاضِعَ مُتَعَبِّدَاتِهِمُ بِالْمُسْلِمِينَ... كَمَا يُحِبُّ الدَّفْعُ عَنْ أَرْبَابِهَا وَإِنْ كَانَ يُغِضُّهُمْ، وَهَذَا الْقَوْلُ هُوَ الرَّاجِحُ، وَهُوَ مَذْهَبُ ابْنِ عَبَّاسٍ.

Ibn al-Qayyim writes in *Aḥkām ahl al-dhimma*: "Allah

¹ Qur'ān 22:40.

² •Abū Bakr al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 5:83. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 3:1169.

³ •Abū Bakr al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 5:83.

uses the believers to defend their places of worship.... Moreover, it is obligatory for him [the believer] to defend their objects of worship, even though he detests them. This is the correct position and the view maintained by Ibn 'Abbās.”¹

• فِي أَرْضِ الصُّلْحِ إِذَا صَارَتْ مِصْرًا لِلْمُسْلِمِينَ، لَمْ يُهْدَمْ مَا كَانَ فِيهَا
مِنْ بَيْعَةٍ أَوْ كَنِيسَةٍ أَوْ بَيْتِ نَارٍ.

“When a territory under treaty becomes a territory of the Muslims, no church, sanctuary or Zoroastrian temple that was there before should be demolished.”²

¹ • Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 3:1169.

² • Abū Bakr al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 5:83.

الْبَابُ السَّادِسُ

الْعَدْلُ مَعَهُمْ فِي الْحُكْمِ وَالْقَضَاءِ

CHAPTER SIX

JUSTICE IN ALL JUDGMENTS AND
RULINGS FOR NON-MUSLIMS

QUR'AN

١. ﴿فَمَنْ أَعْتَدَىٰ عَلَيْكُمْ فَأَعْتَدُوا عَلَيْهِ بِمِثْلِ مَا أَعْتَدَىٰ عَلَيْكُمْ
وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ﴾

1. *So if someone wrongs you, you may also respond in kind but proportional to his offence. And fear Allah. And remember that Allah is with those who fear Him.*¹

٢. ﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا
يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا اعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا
اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ﴾

2. *O believers! Holding fast to the cause of Allah, bear witness based on justice. And let not (even) the extreme hostility against a people provoke you into abstaining from justice (in their case). Always do justice, (for) it is closer to piousness. And fear Allah. Indeed, Allah is Well Aware of your works.*²

٣. ﴿وَلَا تَكْسِبُ كُلُّ نَفْسٍ إِلَّا عَلَيْهَا وَلَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَىٰ﴾

3. *And whatever (sin) each soul earns, (its evil outcome) falls back upon it. And no bearer of burden will bear another's burden.*³

٤. ﴿لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ

¹ Qur'ān 2:194.

² Ibid., 5:8.

³ Ibid., 6:164.

النَّاسُ بِالْقِسْطِ ﴿١﴾

4. *«Verily, We sent Our Messengers with clear signs, and We sent down with them the Book and the balance of justice so that people might grow firm and stable in justice.»¹*

٥. *﴿لَا يَنْهَكُمُ اللَّهُ عَنِ الَّذِينَ لَمْ يُقَاتِلُوكُمْ فِي الدِّينِ وَلَمْ يُخْرِجُوكُمْ مِنْ دِيَارِكُمْ أَنْ تَبَرُّوهُمْ وَتُقْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ﴾*

5. *«Allah does not forbid you to be good to them and treat them with equity and justice who did not fight against you on (the question of) Dīn (Religion), nor did they drive you out of your homes (i.e., homeland). Surely, Allah likes those who conduct themselves with equity and justice.»²*

HADITH

١ / ٦٠. عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْبَيْلَمَانِيِّ رضي الله عنه، أَنَّ رَجُلًا مِنَ الْمُسْلِمِينَ قَتَلَ رَجُلًا مِنْ أَهْلِ الْكِتَابِ، فَرَفَعَ إِلَى النَّبِيِّ ﷺ، فَقَالَ رَسُولُ اللَّهِ ﷺ: أَنَا أَحَقُّ مَنْ وَفَى بِدِمَّتِهِ، ثُمَّ أَمَرَ بِهِ فُقُتِلَ.

رَوَاهُ الشَّافِعِيُّ وَابْنُ أَبِي شَيْبَةَ وَالْقُرَشِيُّ.

60/1. According to 'Abd al-Rahmān b. Baylamānī رضي الله عنه:

“There was a man from the Muslims who killed a non-Muslim with whom there was a peace treaty. The case was presented to the Prophet ﷺ and he said: ‘I am the most responsible of all for fulfilling the rights of those under my care [non-Muslim citizens].’ Then he

¹ Ibid., 57:25.

² Ibid., 60:8.

ordered [the killing of the Muslim killer by way of retribution] and he was executed.”¹

Reported by al-Shāfi‘ī, al-Bayhaqī, al-Shaybanī and al-Qurashī.

٢/٦١. وَفِي رِوَايَةٍ عَنْهُ، قَالَ: إِنَّ رَجُلًا مِنْ أَهْلِ الذِّمَّةِ أَتَى رَسُولَ اللَّهِ ﷺ فَقَالَ: إِنَّا عَاهَدْنَاكَ وَبَايَعْنَاكَ عَلَى كَذَا وَكَذَا وَقَدْ خَرَّ بِرَجُلٍ مِنَّا، فَقُتِلَ. فَقَالَ: أَنَا أَحَقُّ مِنْ أَوْفَى بِذِمَّتِهِ. فَأَمَكْنَهُ مِنْهُ فَضَرِبَتْ عَنْقُهُ.

رَوَاهُ الْبَيْهَقِيُّ وَالْدَّارَقُطْنِيُّ وَالشَّافِعِيُّ.

61/2. In a similar report, ‘Abd al-Raḥmān b. Baylamānī رحمته الله related:

“A man from among the non-Muslim citizens came to Allah’s Messenger ﷺ and said: ‘We have entered into a treaty with you on such and such issue. One of us was betrayed and murdered.’ Allah’s Messenger ﷺ said: ‘I am most responsible of all for fulfilling the rights of those under my care [non-Muslim citizens].’ Then he ordered [the killing of the Muslim killer by way of retribution] and he was killed.”²

Reported by al-Bayhaqī, al-Dāraqūṭnī and al-Shāfi‘ī.

٣/٦٢. عَنْ أَبِي شُرَيْحٍ الْخُزَاعِيِّ أَنَّ النَّبِيَّ ﷺ قَالَ: مَنْ أُصِيبَ بِقَتْلِ أَوْ خَبَلٍ، فَإِنَّهُ يَخْتَارُ إِحْدَى ثَلَاثٍ: إِمَّا أَنْ يَقْتَصَّ، وَإِمَّا أَنْ يَعْفُو، وَإِمَّا أَنْ يَأْخُذَ الدِّيَّةَ. فَإِنْ أَرَادَ الرَّابِعَةَ فَخُذُوا عَلَى يَدَيْهِ ﴿فَمَنْ أَعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ﴾.

رَوَاهُ أَبُو دَاوُدَ وَعَبْدُ الرَّزَّاقِ.

62/3. Abū Shurayḥ al-Khuza‘ī related that the Prophet ﷺ said:

¹ Set forth by •al-Shāfi‘ī in *al-Musnad*, p. 343 and in *al-Umm*, 7:320. •Abū Nu‘aym in *Musnad Abī Ḥanīfa*, p. 104. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:30 §15696. •al-Shaybānī in *al-Mabsūṭ*, 4:488 and in *al-Ujja*, 4:342-344. •al-Qurashī in *al-Kharāj*, p. 82 §238.

² Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 8:30 §15697 and in *Ma‘rifat al-sunan wa al-āthār*, 6:149 §4814. •al-Daraqūṭnī in *al-Sunan*, 3:135 §167. •al-Shāfi‘ī in *al-Musnad*, 1:443.

“If someone’s relative is killed, or if one of his extremities is cut off, he may choose one of the three options: he may retaliate, forgive or receive compensation. But if he wishes a fourth [something that exceeds the bounds set by the Shariah], you must hold him back [for Allah says,] *«So, anyone who transgresses after that, there is painful torment for him»*¹.”²

Reported by Abū Dāwūd and ‘Abd al-Razzāq.

٤/٦٣. عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ عليه السلام، إِذَا قَتَلَ الْمُسْلِمُ النَّصْرَانِيَّ قُتِلَ بِهِ.
رَوَاهُ الشَّيْبَانِيُّ وَالشَّافِعِيُّ.

63/4. ‘Alī b. Abī Tālib عليه السلام said:

“If a Muslim kills a Christian, he shall be killed in retribution.”³

Reported by al-Shaybānī and al-Shāfi‘ī.

٥/٦٤. عَنْ مُجَاهِدٍ، عَنْ ابْنِ مَسْعُودٍ رضي الله عنه، قَالَ: كَانَ يَقُولُ: دِيَّةُ أَهْلِ الْكِتَابِ مِثْلُ
دِيَّةِ الْمُسْلِمِ.
رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

64/5. According to Mujāhid, Ibn Mas‘ūd رضي الله عنه said:

“The blood money for the people of the Book is equal to that of Muslims.”⁴

Reported by Ibn Abī Shayba.

¹ Qur’ān 2:178.

² Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: “The Leader Should Urge Forgiveness in the Matter of Shedding Blood,” 4:169 §4496. •‘Abd al-Razzāq in *al-Muṣannaf*, 10:86 §18454.

³ Cited by •al-Shāfi‘ī in *al-Umm*, 7:320. •al-Shaybānī in *Kitāb al-ḥujja ‘alā ahl al-Madīna*, 4:347.

⁴ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 5:406 §27444.

٦٥/٦. عَنِ الْقَاسِمِ بْنِ عَبْدِ الرَّحْمَنِ، قَالَ: قَالَ عَبْدُ اللَّهِ: مَنْ كَانَ لَهُ عَهْدٌ، أَوْ ذِمَّةٌ فَدِيَّتُهُ دِيَّةُ الْحُرِّ الْمُسْلِمِ.
رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

65/6. Al-Qāsim b. ‘Abd al-Raḥmān related that ‘Abd Allah b. Mas‘ūd said:

“The blood money of a non-Muslim who is under treaty (of protection of life and property) or is under guarantee is equal to that of a free Muslim.”¹

Reported by Ibn Abī Shayba.

• عَنْ إِبْرَاهِيمَ، عَنْ عَلْقَمَةَ، قَالَ: دِيَّةُ الْمُعَاهِدِ مِثْلُ دِيَّةِ الْمُسْلِمِ.
رَوَاهُ ابْنُ أَبِي شَيْبَةَ.

Ibrāhīm related that ‘Alqama said: “The blood money of a person under peace treaty [*mu‘āhad*] is equal to that of a Muslim.”²

Reported by Ibn Abī Shayba.

• عَنْ أَبِي حَنِيفَةَ عَنِ الْحَكَمِ بْنِ عُتَيْبَةَ أَنَّ عَلِيًّا ؓ قَالَ: دِيَّةُ الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَكُلِّ ذِمِّيٍّ مِثْلُ دِيَّةِ الْمُسْلِمِ. قَالَ أَبُو حَنِيفَةَ وَهُوَ قَوْلِي.
رَوَاهُ عَبْدُ الرَّزَّاقِ.

Imam Abū anīfa reported on the authority of ‘Utba that ‘Alī b. Abī Ṭālib ؓ said: “The blood money for a [peaceful] Jew, Christian and every non-Muslim citizen is like that of the Muslim [i.e., their heirs receive the same amount of monetary compensation as a Muslim family does].” Imam

¹ Ibid., §27445.

² Ibid., §27446.

Abū anīfa said: "I support this statement."¹

Reported by ‘Abd al-Razzāq.

• قَالَ بَعْضُ أَهْلِ الْعِلْمِ: دِيَّةُ الْيَهُودِيِّ وَالنَّصْرَانِيِّ مِثْلُ دِيَّةِ الْمُسْلِمِ وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَأَهْلِ الْكُوفَةِ.
رَوَاهُ التِّرْمِذِيُّ.

Some jurists said: "The blood money for a [peaceful] Jew or a Christian is like that of a Muslim. This is the position of Sufyān al-Thawrī and the people of Kufa."²

Reported by al-Tirmidhī.

• عَنِ الزُّهْرِيِّ قَالَ: دِيَّةُ الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَالْمَجُوسِيِّ وَكُلِّ ذِمِّيٍّ مِثْلُ دِيَّةِ الْمُسْلِمِ.
رَوَاهُ عَبْدُ الرَّزَّاقِ.

According to al-Zuhrī: "The blood money for a [peaceful] Jew, a Christian or a Zoroastrian and every non-Muslim citizen is like that of a Muslim [i.e., their heirs receive the same amount of monetary compensation as a Muslim family]."³

Reported by ‘Abd al-Razzāq.

• قَالَ ابْنُ شِهَابٍ الزُّهْرِيُّ: إِنَّ دِيَّةَ الْمُعَاهِدِ فِي عَهْدِ أَبِي بَكْرٍ وَعُمَرَ وَعُثْمَانَ عَلَيْهِ السَّلَامُ مِثْلُ دِيَّةِ الْحُرِّ الْمُسْلِمِ.

¹ Set forth by •‘Abd al-Razzāq in *al-Muṣannaf*, 10:97 §18494.

² Set forth by •al-Tirmidhī in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: "What Has Come To Us Concerning The Blood Money Of Non-Muslims," 4:25 §1413.

³ Set forth by •‘Abd al-Razzāq in *al-Muṣannaf*, 10:95 §18491.

ذَكَرَهُ الشَّيْبَانِيُّ وَالشَّافِعِيُّ.

Imam Ibn Shihāb al-Zuhrī said: ‘During the reigns of Abū Bakr, ‘Umar and ‘Uthmān رضي الله عنه, the blood money for a non-Muslim citizen was equal to that of a free Muslim.”¹

Cited by al-Shaybānī and al-Shāfi‘ī.

The position of the Ḥanafī school of jurisprudence is that a Muslim should be killed in retribution for killing a non-Muslim citizen. This position is supported by the general import of the texts within the Qur’ān and hadith, which make retribution obligatory. Muslim and non-Muslim blood share an equal amount of inviolability and sanctity, without any discrimination. Imam al-Nakha‘ī, Ibn Abī Laylā, al-Sha‘bī and ‘Uthmān al-Battī also share this view held by the Ḥanafī school.

A doubt may emerge pertaining to the saying of the Prophet ﷺ,

وَلَا يُقْتَلُ مُسْلِمٌ بِكَافِرٍ.

“A Muslim is not to be killed in retaliation for murdering a disbeliever.”²

What does that mean? The jurists explained this and said that here the word “disbeliever” does not refer to a peaceful citizen; it rather signifies a combatant who is killed. There is to be no retribution in this case. This is an international law in effect in all countries of the world and there is no difference of opinion about it.

٧/٦٦. عَنْ إِبْرَاهِيمَ أَنَّ رَجُلًا مِنْ بَنِي بَكْرِ بْنِ وَائِلٍ قَتَلَ رَجُلًا مِنْ أَهْلِ الْحِجْرَةِ، فَكَتَبَ فِيهِ عُمَرُ بْنُ الْخَطَّابِ رضي الله عنه أَنْ يَدْفَعَ إِلَى أَوْلِيَاءِ الْمَقْتُولِ. فَإِنْ شَاؤُوا قَتَلُوا وَإِنْ شَاؤُوا عَفَوْا. فَدَفَعَ الرَّجُلُ إِلَى وَلِيِّ الْمَقْتُولِ إِلَى رَجُلٍ يُقَالُ لَهُ حُنَيْنٌ مِنْ أَهْلِ الْحِجْرَةِ، فَقَتَلَهُ.

¹ Cited by •al-Shāfi‘ī in *al-Umm*, 7:321. •al-Shaybānī in *al-Hujja*, 4:351.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-‘ilm* [The Book of Knowledge], chapter: “On Writing Down Knowledge,” 1:53 §III.

رَوَاهُ الشَّافِعِيُّ وَالْبَيْهَقِيُّ.

66/7. Ibrāhīm related: "During the Caliphate of 'Umar رضي الله عنه, a person from the tribe of Banū Bakr b. Wā'il killed a non-Muslim citizen of Ḥira. On this, 'Umar b. al-Khaṭṭāb wrote the judgment to hand the killer over to the guardian of the victim, who had the choice of either killing or pardoning him. Hence, the killer was handed over to the guardian of the victim named unayn, who killed him."¹

Reported by al-Shāfi'ī and al-Bayhaqī.

٨/٦٧. عَنْ أَبِي الْجُنُوبِ الْأَسَدِيِّ قَالَ: أَتَى عَلِيُّ بْنُ أَبِي طَالِبٍ رضي الله عنه بِرَجُلٍ مِنَ الْمُسْلِمِينَ قَتَلَ رَجُلًا مِنْ أَهْلِ الدِّمَةِ. قَالَ: فَقَامَتْ عَلَيْهِ الْبَيْتَةُ، فَأَمَرَ بِقَتْلِهِ، فَجَاءَ أَخُوهُ فَقَالَ: إِنِّي قَدْ عَفَوْتُ عَنْهُ. قَالَ: فَلَعَلَّهُمْ هَدَّدُوكَ أَوْ فَرَّقُوكَ أَوْ فَرَّعُوكَ. قَالَ: لَا، وَلَكِنَّ قَتْلَهُ لَا يَرُدُّ عَلَيَّ أَخِي، وَعَوَّضُونِي فَرَضَيْتُ. قَالَ: أَنْتَ أَعْلَمُ. مَنْ كَانَ لَهُ ذِمَّتُنَا فَدَمُهُ كَدِمِنَا وَدَيْتُهُ كَدَيْتَنَا.

رَوَاهُ الشَّافِعِيُّ وَأَبُو يُوسُفَ وَالْبَيْهَقِيُّ.

67/8. Abū Junūb al-Asadī related:

"A Muslim who had killed a non-Muslim citizen was presented in the court of 'Alī رضي الله عنه. The proof of his crime was found valid, and for that, 'Alī رضي الله عنه ordered him to be killed in retribution. The brother of the victim came to 'Alī and said: 'I have forgiven him.' 'Alī said: 'Perhaps they [the heirs of the killer] scared you or threatened you.' He replied in the negative and said: 'My brother would not come back, even if the killer was killed in retribution, and they (the heirs of the killer) paid me the blood money; therefore, I am content.' On this, 'Alī said: 'You know better (but this is the principle of our government). When someone comes under the guarantee of our protection, his blood

¹ Set forth by al-Shāfi'ī in *al-Umm*, 7:321. • al-Bayhaqī in *al-Sunan al-kubrā*, 8:32 §15706. • al-Shaybānī in *al-ujja*, 4:335. • al-Zayla'ī in *Naṣb al-rāya*, 4:337.

becomes like our blood, and the blood money due to him is like the blood money due to us.”¹

Reported by Shāfi‘ī, Abū Yūsuf and al-Bayhaqī.

٩/٦٨. وَفِي رِوَايَةٍ عَنْ أَنَسٍ أَنَّ رَجُلًا مِنْ أَهْلِ مِصْرَ أَتَى عُمَرَ بْنَ الْخَطَّابِ فَقَالَ: يَا أَمِيرَ الْمُؤْمِنِينَ، عَانِدُ بِكَ مِنَ الظُّلْمِ. قَالَ: عُدْتَ مَعَاذًا. قَالَ: سَابَقْتُ ابْنَ عَمْرٍو بْنَ الْعَاصِ، فَسَبَقْتُهُ، فَجَعَلَ يَضْرِبُنِي بِالسَّوْطِ وَيَقُولُ: أَنَا ابْنُ الْأَكْرَمِينَ. فَكَتَبَ عُمَرُ إِلَى عَمْرٍو يَأْمُرُهُ بِالْقُدُومِ وَيَقْدِمُ بَابِيهِ مَعَهُ، فَقَدِمَ، فَقَالَ عُمَرُ: أَيُّنَ الْمِصْرِيِّ؟ خَذِ السَّوْطَ فَاضْرِبْ. فَجَعَلَ يَضْرِبُهُ بِالسَّوْطِ وَيَقُولُ عُمَرُ: اضْرِبْ ابْنَ الْأَكْرَمِينَ. قَالَ أَنَسٌ: فَضْرَبَ، فَوَاللَّهِ، لَقَدْ ضَرَبَهُ وَنَحْنُ نُحِبُّ ضَرْبَهُ. فَمَا أَقْلَعَ عَنْهُ حَتَّى تَمَيَّنَا أَنَّهُ يَرْفَعُ عَنْهُ. ثُمَّ قَالَ عُمَرُ لِلْمِصْرِيِّ: ضَعِ السَّوْطَ عَلَى صُلْعَةِ عَمْرٍو، فَقَالَ: يَا أَمِيرَ الْمُؤْمِنِينَ، إِنَّمَا ابْنُ الَّذِي ضَرَبَنِي وَقَدْ اسْتَفَدْتُ مِنْهُ. فَقَالَ عُمَرُ لِعَمْرٍو: مُذْ كَمْ تَعَبَدْتُمُ النَّاسَ وَقَدْ وَلَدْتَهُمْ أُمَّهَاتُهُمْ أَحْرَارًا؟ قَالَ: يَا أَمِيرَ الْمُؤْمِنِينَ، لَمْ أَعْلَمْ وَلَمْ يَأْتِنِي.

ذَكَرَهُ الْهَنْدِيُّ.

68/9. Anas b. Mālik رَوَى related:

“A person from Egypt came to ‘Umar b. al-Khaṭṭāb and said: ‘O Commander of the faithful! I beg your refuge from wrongdoing.’ He said: ‘You are granted total refuge.’ He said: ‘I had a race with the son of ‘Amr b. al-‘Āṣ and I beat him, then he whipped me, saying: ‘I am the son of the noble!’ ‘Umar wrote to ‘Amr b. al-‘Āṣ and ordered him to present his son in his court. ‘Amr b. al-‘Āṣ followed the command and submitted. ‘Umar called that Egyptian and said: ‘Take this whip and flog (the son of ‘Amr b. al-‘Āṣ).’ He was flogged while ‘Umar b. al-

¹ Set forth by •al-Shāfi‘ī in *al-Musnad* p. 344. •Abū Yūsuf in *Kitāb al-kharāj*, p. 187. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:34 §15712. •al-‘Asqalānī in *al-Dīrāya fī takhrīj ahādīth al-Hidāya*, 2:263. •al-Zayla‘ī in *Naṣb al-rāya*, 4:336.

Khaṭṭāb was saying: 'Flog the son of the noble!'" Anas reported: "By Allah! He flogged him vigorously and we appreciated it (the justice of 'Umar). He did not stop flogging him until we felt that he must stop. Then 'Umar said to the Egyptian to put the whip on the head of 'Amr b. al-Āṣ. He said: 'O Commander of the faithful! I took revenge from his son who whipped me.' 'Umar said to 'Amr b. al-Āṣ: 'Since when have you regarded people as your slaves, while their mothers gave birth to them as free men?' 'Amr b. al-Āṣ said: 'O Commander of the faithful! I was unaware of this incident and this man did not come to me.'"¹

Cited by al-Hindī.

¹ Set forth by •Ibn 'Abd al-akam in *Futūḥ Miṣr wa akhbārū-hā*, p. 114-115. •al-Hindī in *Kanz al-ummāl*, 12:294 §36010.

الْبَابُ السَّابِعُ

الْبِرُّ وَحُسْنُ التَّعَامُلِ مَعَهُمْ

CHAPTER SEVEN

TREATING NON-MUSLIMS WITH
PIETY AND EXCELLENCE

QUR'ĀN

١. ﴿ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَدِلْهُمْ
بِالَّتِي هِيَ أَحْسَنُ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِمَنْ ضَلَّ عَنْ سَبِيلِهِ وَهُوَ أَعْلَمُ
بِالْمُهْتَدِينَ﴾

1. ﴿(O Glorious Messenger!) Invite towards the path of your Lord with wisdom and refined exhortation and (also) argue with them in a most decent manner. Surely, your Lord knows well the one who strayed away from His path, and He also knows well the rightly guided.﴾¹

٢. ﴿وَلَا تُجَادِلُوا أَهْلَ الْكِتَابِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ إِلَّا الَّذِينَ ظَلَمُوا مِنْهُمْ وَقُولُوا ءَامَنَّا بِالَّذِي أُنزِلَ إِلَيْنَا وَأُنزِلَ إِلَيْكُمْ وَالْهَتَا وَالْهَكُم وَاحِدٌ وَنَحْنُ لَهُ مُسْلِمُونَ﴾

2. ﴿And, (O believers,) do not argue with the People of the Book but in a suitable and decent way, except those of them who did injustice. And say (to them): "We believe in that (Book) which has been revealed to us and which was sent down to you, and our God and your God is but One and we obey Him alone."﴾²

HADITH

١/٦٩. عَنْ أَسْمَاءَ بِنْتِ أَبِي بَكْرٍ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: قَدِمْتُ عَلَى أُمِّي وَهِيَ مُشْرِكَةٌ فِي عَهْدِ

¹ Qur'ān 16:125.

² Ibid., 29:46.

رَسُولُ اللَّهِ ﷺ، فَاسْتَفْتَيْتُ رَسُولَ اللَّهِ ﷺ قُلْتُ: وَهِيَ رَاغِبَةٌ أَفَأَصِلُ أُمِّي؟ قَالَ: نَعَمْ،
صِلِي أُمَّكَ.

مُتَّفَقٌ عَلَيْهِ.

69/1. Asmā', daughter of Abū Bakr ؓ, narrated:

"My mother came to me during the period of Allah's Messenger ﷺ when she was still a polytheist. I asked about the ruling from Allah's Messenger ﷺ: 'She desires (a gift from me); shall I keep kinship with her?' He said: 'Yes, keep good relations with your (polytheist) mother.'"¹

Agreed upon by al-Bukhārī and Muslim.

٧٠ / ٢. عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ ؓ قَالَ: مَرَّتْ بِنَا جَنَازَةٌ فَقَامَ لَهَا النَّبِيُّ ﷺ وَقُمْنَا لَهُ،
فَقُلْنَا: يَا رَسُولَ اللَّهِ، إِنَّهَا جَنَازَةٌ يَهُودِيٍّ! قَالَ: إِذَا رَأَيْتُمُ الْجَنَازَةَ فَقُومُوا.
مُتَّفَقٌ عَلَيْهِ.

70/2. Jābir b. 'Abd Allah ؓ related:

"A funeral procession passed in front of us and the Prophet ﷺ stood up and we too stood up." We said, 'O Messenger of Allah ﷺ, this is the funeral procession of a Jew!' He said: 'If you catch sight of the bier (the funeral procession), you must stand up.'"²

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-hiba wa faḍlu-hā* [The Book of Gifts and their Excellence], chapter: "Gifts to idolaters," 2:924 §2477 and in *Kitāb al-Jizya* [The Book of Annual Security Tax for non-Muslims], chapter: The sin committed by someone who promises and then betrays, 3:1162 §3012. •Muslim in *al-Ṣaḥīḥ: Kitāb al-Zakāt* [The book of the Alms-due], chapter: "The excellence of spending on and giving alms to relatives, to spouse, to children, and parents even if they are polytheists," 2:696 §1003. •Aḥmad b. anbal in *al-Musnad*, 6:347 §26985. •Abū Dāwūd in *al-Sunan: Kitāb al-Zakāt* [The book of the Alms-due], chapter: "Bestowing charity upon the non-Muslim citizens of a Muslim country," 2:127 §1668. •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 24:78 §203. •Abd al-Razzāq in *al-Muṣannaf*, 6:38 §9932.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-Janā'iz* [The Book of Funeral

Agreed upon by al-Bukhārī and Muslim.

٣/٧١. وَفِي رِوَايَةٍ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى رضي الله عنه قَالَ: كَانَ سَهْلُ بْنُ حُنَيْفٍ وَقَيْسُ بْنُ سَعْدٍ رضي الله عنه قَاعِدَيْنِ بِالْقَادِسِيَّةِ. فَمَرُّوا عَلَيْهِمَا بِجَنَازَةٍ، فَقَامَا. فَقِيلَ لَهُمَا: إِنَّهَا مِنْ أَهْلِ الْأَرْضِ أَيْ مِنْ أَهْلِ الذِّمَّةِ. فَقَالَا: إِنَّ النَّبِيَّ صلى الله عليه وسلم مَرَّتْ بِهِ جَنَازَةٌ، فَقَامَ، فَقِيلَ لَهُ: إِنَّهَا جَنَازَةُ يَهُودِيٍّ. فَقَالَ: أَلَيْسَتْ نَفْسًا؟
مُتَّفَقٌ عَلَيْهِ.

71/3. ‘Abd al-Raḥmān b. Abī Layla رضي الله عنه related:

“Sahl b. unayf and Qays b. Sa’d رضي الله عنه were sitting in the city of al-Qādisiyya. A funeral procession passed in front of them and they both stood up. They were told that the funeral procession was of one of the inhabitants of the land (i.e., of a non-believer). They both said: ‘(Once) a funeral procession passed in front of the Prophet صلى الله عليه وسلم and he stood up. When he was told that it was the funeral of a Jew, he said: ‘Is it not a soul?’”¹

Agreed upon by al-Bukhārī and Muslim.

Ceremonies], chapter: “Someone standing up for a Jewish funeral procession,” 1:441 §1249. •Muslim in *al-Ṣaḥīḥ: Kitāb al-Janā’iz* [The Book of Funeral Ceremonies], chapter: “Someone standing up for a funeral procession,” 2:660 §960. •Aḥmad b. anbal in *al-Musnad*, 3:319 §14467. •al-Nasā’ī in *al-Sunan: Kitāb al-Janā’iz* [The Book of Funeral Ceremonies], chapter: “Someone standing up for the funeral procession of the people who associate partners with Allah,” 4:45 §1922 and in *al-Sunan al-kubrā*, 1:626 §2049.

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-Janā’iz* [The Book of Funeral Ceremonies], chapter: “Someone standing up for a Jewish funeral procession,” 1:441 §1250. •Muslim in *al-Ṣaḥīḥ: Kitāb al-Janā’iz* [The Book of Funeral Ceremonies], chapter: “Someone getting to his feet for a funeral procession,” 2:661 §961. •Aḥmad b. Ḥanbal in *al-Musnad*, 6:6 §23893. •al-Nasā’ī in *al-Sunan: Kitāb al-Janā’iz* [The Book of Funeral Ceremonies], chapter: “Someone standing up for the funeral procession of the people who associate partners with Allah,” 4:45 §1921 and in *al-Sunan al-Kubrā*, 1:626 §2048. •Ibn Abī Shayba in *al-Muṣannaf*, 3:39 §11918. •Ibn al-Ja’d in *al-Musnad*, p. 27 §70. •al-Ṭabarānī in *al-Mu’jam al-Kabīr*, 6:90 §5606. •al-Bayhaqī in *al-Sunan al-Kubrā*, 4:27 §6672.

٧٢/٤. عَنْ هِشَامِ بْنِ حَكِيمٍ بْنِ حِزَامٍ قَالَ: مَرَّ بِالشَّامِ عَلَى أَنَاسٍ وَقَدْ أُفِيمُوا فِي الشَّمْسِ وَصُبَّ عَلَى رُؤُسِهِمُ الزَّيْتُ. فَقَالَ: مَا هَذَا؟ قِيلَ: يُعَذَّبُونَ فِي الْخَرَاجِ. فَقَالَ: أَمَا إِنِّي سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: إِنَّ اللَّهَ يُعَذِّبُ الَّذِينَ يُعَذَّبُونَ فِي الدُّنْيَا. رَوَاهُ مُسْلِمٌ وَأَحْمَدُ وَأَبُو دَاوُدَ وَالنَّسَائِيُّ.

72/4. Hishām b. akīm b. izām reported:

“Once he passed by some people in Syria who were made to stand in the sun, and olive oil was poured on their heads. He asked: ‘Why are they getting punished?’ He was told that they were being punished for not paying the land tax. akīm b. Hizām said that he heard Allah’s Messenger ﷺ say: ‘Indeed, Allah shall torment those who torment others in the life of this world.’”¹

Reported by Muslim and Aḥmad, Abū Dāwūd and al-Nasā’ī.

٧٣/٥. وَفِي رِوَايَةٍ عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ أَنَّ هِشَامَ بْنَ حَكِيمٍ وَجَدَ رَجُلًا وَهُوَ عَلَى حِمَصٍ يُشَمْسُ نَاسًا مِنَ النَّبْطِ فِي أَدَاءِ الْجِزْيَةِ فَقَالَ: مَا هَذَا؟ إِنِّي سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: إِنَّ اللَّهَ يُعَذِّبُ الَّذِينَ يُعَذَّبُونَ النَّاسَ فِي الدُّنْيَا. رَوَاهُ مُسْلِمٌ وَأَحْمَدُ وَأَبُو دَاوُدَ وَالنَّسَائِيُّ.

73/5. ‘Urwa b. al-Zubayr reported:

“Hishām b. akīm found that the ruler of Homs made some Nabateans (a nation in Iraq) stand in the sun, for not paying their annual security tax (*jizya*). He said: ‘What is this? I heard Allah’s

¹ Set forth by •Muslim in *al-Ṣaḥīḥ: Kitāb al-birr wa al-ṣila wa al-ādāb* [The Book of Piety, Filial Duty and Good Manners], chapter: “The Severe Divine Threat to the One Who Punishes People Unjustly,” 4:2018 § 2613. •Aḥmad b. Ḥanbal in *al-Musnad*, 3:403, 404, 468. •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj* [The Book of Land Taxation], chapter: “On Being Harsh,” 3:106 §3045. •al-Nasā’ī in *al-Sunan al-kubrā*, 5:236 §8771.

Messenger ﷺ say: "Allah Most High will torment those who torture people in this world."¹

Reported by Muslim and Aḥmad, Abū Dāwūd and al-Nasā'ī.

٦/٧٤. عَنْ أَبِي قَتَادَةَ قَالَ: قَدِمَ وَفْدُ النَّجَاشِيِّ عَلَى النَّبِيِّ ﷺ فَقَامَ يَخْدُمُهُمْ. فَقَالَ أَصْحَابُهُ: نَحْنُ نَكْفِيكَ، يَا رَسُولَ اللَّهِ. قَالَ: إِنَّهُمْ كَانُوا لِأَصْحَابِ مُكْرِمِينَ، فَإِنِّي أُحِبُّ أَنْ أَكْفِيَهُمْ.

رَوَاهُ الْبَيْهَقِيُّ وَالصَّيْدَاوِيُّ وَذَكَرَهُ ابْنُ كَثِيرٍ وَالْحَلَبِيُّ.

74/6. Abū Qatāda related:

"A delegation of King Negus of Abyssinia [*abasha*] came to the Prophet ﷺ and he served them (very well). His Companions said: 'O Messenger of Allah! We are here to serve them.' Allah's Messenger ﷺ replied: 'These people paid respect to my Companions; therefore, I like that I myself pay back their generosity.'²

Reported by al-Bayhaqī, al-Ṣaydāwī and cited by Ibn Kathīr and al- alabī.

٧/٧٥. عَنْ جُبَيْرِ بْنِ نُفَيْرٍ ﷺ أَنَّ عُمَرَ بْنَ الْخَطَّابِ ﷺ أَتَى بِمَالٍ كَثِيرٍ، قَالَ أَبُو عُبَيْدٍ: أَحْسِبُ قَالَ: مِنَ الْجِزْيَةِ، فَقَالَ: إِنِّي لَا أَظُنُّكُمْ قَدْ أَهْلَكْتُمُ النَّاسَ. قَالُوا: لَا، وَاللَّهِ، مَا أَخَذْنَا إِلَّا عَفْوًا صَفْوًا. قَالَ: بَلَا سَوَاطٍ وَلَا نَوَاطٍ؟ قَالُوا: نَعَمْ. قَالَ: أَلْحَمْدُ

¹ Narrated by •Muslim in *al-Ṣaḥīḥ: Kitāb al-birr wa al-ṣila wa al-ādāb* [The Book of Piety, Filial Duty and Good Manners], chapter: "The Severe Divine Threat for Someone Who Punishes People Unjustly," 4:2018 §2613. •Aḥmad b. Ḥanbal in *al-Musnad*, 3:404 §5612. •Abū Dāwūd in *al-Sunan: al-Kharāj wa al-Imāra wa al-Fay'* [The Book of the Land Tax, Imperial Authority and the Bestowal of Booty], chapter: "Recovering the Capitation Tax Forcibly," 3:169 §3045. •al-Nasā'ī in *al-Sunan al-Kubrā*, 5:236 §8771.

² Set forth by •al-Bayhaqī in *Shu'ab al-īmān*, 6:518 §9125 and in *Dalā'il al-Nubuwwa*, 2:307. •al-Ṣaydāwī in *Mu'jam al-shūyūkh*, 1:97. •al- alabī in *al-Sīra al- alabiyya*, 2:758. •Ibn Kathīr in *al-Sīra*, 2:31.

لِلَّهِ الَّذِي لَمْ يَجْعَلْ ذَلِكَ عَلَى يَدَيَّ وَلَا فِي سُلْطَانِي.
رَوَاهُ أَبُو عُبَيْدٍ وَذَكَرَهُ ابْنُ قُدَامَةَ فِي الْمُغْنِي.

75/7. According to Jubayr b. Nufayr رحمته الله:

“A large amount of wealth was brought to ‘Umar b. al-Khaṭṭāb رحمته الله. Abū ‘Ubayd said: ‘I believe it was the money collected from tax.’ ‘Umar said: ‘For certain, you have destroyed the people!’ They [the tax collectors] said: ‘No, by Allah! We have only taken with tenderness and ease what was surplus to their needs.’ ‘Umar inquired, ‘Was it acquired without recourse to a whip or coercion?’ They replied: ‘Yes.’ He said: ‘All praise is due to Allah, Who did not put that (oppression and injustice) on my hands or during my rule.’”¹

Reported by Abū ‘Ubayd al-Qāsim b. Sallām and cited by Ibn Qudāma in *al-Mughnī*.

TRADITIONS OF PIOUS SCHOLARS OF EARLY TIMES

• وَفِي الدَّرِّ الْمُخْتَارِ: وَيَجِبُ كَفُّ الْأَذَى عَنْهُ وَتَحْرُمُ غَيْبَتُهُ كَالْمُسْلِمِ.

In *al-Durr al-mukhtār* it is stated: “It is mandatory to keep him [the non-Muslim citizen] from agony and torture. Backbiting him is forbidden, just as it is forbidden to backbite a Muslim.”²

• وَقَالَ الْإِمَامُ شَهَابُ الدِّينِ الْقُرَائِيُّ الْمَلِكِيُّ فِي كِتَابِهِ ‘الْفُرُوقِ’ عَنْ حُقُوقِ غَيْرِ الْمُسْلِمِينَ:

إِنَّ عَقْدَ الذِّمَّةِ يُوجِبُ لَهُمْ حُقُوقًا عَلَيْنَا، لِأَنَّهُمْ فِي جَوَارِنَا وَفِي خِفَارَتِنَا (حِمَايَتِنَا) وَذِمَّتِنَا وَذِمَّةَ اللَّهِ تَعَالَى، وَذِمَّةَ رَسُولِ اللَّهِ ﷺ، وَذِمَّةَ الْإِسْلَامِ.

¹ Cited by •Abū ‘Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, p. 54 §114.
•Ibn Qudāma in *al-Mughnī*, 9:290.

² •Al-Ḥaṣḥāfī, *al-Durr al-mukhtār*, 2:223. •Ibn ‘Ābidīn al-Shāmī, *Radd al-muḥtār*, 3:273–274.

فَمَنْ اعْتَدَى عَلَيْهِمْ وَلَوْ بِكَلِمَةٍ سَوْءٍ أَوْ غِيْبَةٍ، فَقَدْ ضَيَعَ ذِمَّةَ اللَّهِ، وَذِمَّةَ رَسُولِهِ ﷺ وَذِمَّةَ دِينِ الْإِسْلَامِ.

Imam Shihāb al-Dīn al-Qurāfī, the famous Mālikī jurist, wrote in his book *al-Furūq* about the rights of non-Muslim citizens: "The *dhimma* contract for non-Muslims establishes certain rights that they have upon us because they live in proximity to us and are under our protection and care and the care of Allah and His Messenger ﷺ and the religion of Islam. So whoever transgresses against them—even by an evil word or through backbiting—has lost the guarantee of Allah, His Messenger ﷺ and the religion of Islam [i.e., did not fulfil the rights and duties owed to them, and has acted sinfully].¹

• قَالَ ابْنُ عَابِدِينَ الشَّامِيُّ فِي حُقُوقِ غَيْرِ الْمُسْلِمِينَ: لِأَنَّهُ بَعْدَ الذَّمِّ وَجَبَ لَهُ مَا لَنَا، فَإِذَا حُرِّمَتْ غِيْبَةُ الْمُسْلِمِ حُرِّمَتْ غِيْبَتُهُ، بَلْ قَالُوا: إِنَّ ظُلْمَ الذَّمِّيِّ أَشَدُّ.

Ibn ‘Ābidīn al-Shāmī writes about the rights of non-Muslim citizens: "For due to the contract of *dhimma* he [a non-Muslim] enjoys the same rights as we do. Backbiting a non-Muslim is forbidden the same way as it is for Muslims. Nay, they [the jurists] have said that oppression meted out to a non-Muslim citizen is even severer [in sin]."²

• قَدْ حَقَّقَ الْإِمَامُ الْكَاسَانِيُّ فِي كِتَابِهِ 'بَدَائِعُ الصَّنَائِعِ' الْمُسَاوَاةَ فِي الْحُقُوقِ بَيْنَ الْمُسْلِمِينَ وَغَيْرِ الْمُسْلِمِينَ: لَهُمْ مَا لَنَا وَعَلَيْهِمْ مَا عَلَيْنَا.

Al-Kāsānī, in his book *Badā’i’ al-ṣanā’i’*, has regarded

¹ • Al-Qurāfī, *al-Furūq*, 3:14.

² • Ibn ‘Ābidīn al-Shāmī, *Radd al-muḥtār*, 3:273–274.

the rights of Muslims and non-Muslims as equal: "Non-Muslim citizens enjoy the same rights that are enjoyed by us (Muslims), and they have the same responsibilities as we do."¹

¹ •Al-Kāsānī, *Badā'i' al-ṣanā'i'*, 7:111.

الْبَابُ الثَّامِنُ

التَّعَامُلُ مَعَهُمْ بِالصَّبْرِ وَعَدَمُ الْإِنْتِقَامِ مِنْهُمْ

CHAPTER EIGHT

NON-REVENGEFUL, FORBEARING
AND TOLERANT BEHAVIOUR
TOWARDS NON-MUSLIMS

١/٧٦. عَنْ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ قَالَ: كَأَنِّي أَنْظُرُ إِلَى النَّبِيِّ ﷺ يَحْكِي نَبِيًّا مِنَ الْأَنْبِيَاءِ، ضَرَبَهُ قَوْمُهُ فَأَذَمُوهُ وَهُوَ يَمْسَحُ الدَّمَ عَنْ وَجْهِهِ وَيَقُولُ: اَللَّهُمَّ، اغْفِرْ لِقَوْمِي فَإِنَّهُمْ لَا يَعْلَمُونَ.

مُتَّفَقٌ عَلَيْهِ.

76/1. ‘Abd Allah b. Mas‘ūd رَضِيَ اللَّهُ عَنْهُ related:

“I saw the Prophet ﷺ in a state, as though he was talking about one of the Prophets whose nation had beaten him and caused him to bleed, and while he was wiping his face, he supplicated: ‘O Allah! Forgive my people, for they do not know.’”¹

Agreed upon by al-Bukhārī and Muslim.

٢/٧٧. وَفِي رِوَايَةٍ عَائِشَةَ زَوْجِ النَّبِيِّ ﷺ أَنَّهَا قَالَتْ لِرَسُولِ اللَّهِ ﷺ: يَا رَسُولَ اللَّهِ، هَلْ أَتَى عَلَيْكَ يَوْمٌ كَانَ أَشَدَّ مِنْ يَوْمٍ أُحِدَ؟ فَقَالَ: لَقَدْ لَقِيتُ مِنْ قَوْمِكَ وَكَانَ أَشَدَّ مَا لَقِيتُ مِنْهُمْ يَوْمَ الْعَقَبَةِ. إِذْ عَرَضْتُ نَفْسِي عَلَى ابْنِ عَبْدِ يَالِيلَ بْنِ عَبْدِ كَلَالٍ فَلَمْ يُجِبْنِي إِلَى مَا أَرَدْتُ، فَاِنْطَلَقْتُ وَأَنَا مَهْمُومٌ عَلَى وَجْهِهِ. فَلَمْ أَسْتَفِقْ إِلَّا بِقَرْنِ الثَّعَالِبِ.

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ, Kitāb al-Anbiyā'* [The Book of the Prophets], chapter: The Narration of the Cave, 3:1282 §3290 and in *Kitāb al-istī'āba al-murtaddīn wa al-nu'ānidīn wa qitālihim* [The Book on Demanding the Repentance of the Apostates and Reprobates, and Fighting Them], chapter: “What is to be Done When a Non-Muslim Citizen or Anyone Else Presents Himself,” 6:2539 §6530. •Muslim in *al-Ṣaḥīḥ, Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “The Battle of Uhud,” 4:1417 §1792. •Aḥmad b. anbal in *al-Musnad*, 1:453 §4331. •Ibn Mājah in *al-Sunan*, 2:1335 §4025. •Ibn ibbān in *al-Ṣaḥīḥ*, 14:537 §6576. •Abū Ya'la in *al-Musnad*, 9:131 §5205. •al-Bazzār in *al-Musnad*, 5:106–107 §1686. •Abū Awāna in *al-Musnad*, 4:329 §6869.

فَرَفَعْتُ رَأْسِي فَإِذَا أَنَا بِسَحَابَةٍ قَدْ أَظْلَمَتْنِي. فَنَظَرْتُ فَإِذَا فِيهَا جِبْرِيلُ فَنَادَانِي، فَقَالَ: إِنَّ اللَّهَ بِمَا شِئْتُمْ فِيهِمْ. قَالَ: فَنَادَانِي مَلَكُ الْجِبَالِ، وَسَلَّمْ عَلَيَّ، ثُمَّ قَالَ: يَا مُحَمَّدُ، إِنَّ اللَّهَ قَدْ سَمِعَ قَوْلَ قَوْمِكَ لَكَ، وَأَنَا مَلَكُ الْجِبَالِ وَقَدْ بَعَثَنِي رَبُّكَ إِلَيْكَ لِتَأْمُرَنِي بِأَمْرِكَ فَمَا شِئْتَ. إِنْ شِئْتَ أَنْ أَطِيقَ عَلَيْهِمُ الْأَخْشَبِينَ؟ فَقَالَ لَهُ رَسُولُ اللَّهِ ﷺ: بَلَى أَرْجُو أَنْ يُخْرِجَ اللَّهُ مِنْ أَصْلَابِهِمْ مَنْ يَعْبُدُ اللَّهَ وَحْدَهُ لَا يُشْرِكُ بِهِ شَيْئًا.

مُتَّفَقٌ عَلَيْهِ وَاللَّفْظُ لِمُسْلِمٍ.

77/2. And in a similar narration, 'A'isha, the wife of Allah's Messenger ﷺ, reported that she asked him:

"O Messenger of Allah! Have you endured a day more hurtful than the Day of Uhud?" He said: "Indeed, I experienced a great deal at the hands of your people [the Quraysh]. The hardest treatment I met from them was on the Day of 'Aqaba when I presented myself to Ibn 'Abd Yālil b. 'Abd Kulāl [one of the chiefs of Tā'if]. He did not respond [to my call], so I departed with deep distress and I did not recover until I arrived at Qarn al-Tha'ālib. There, I raised my head and suddenly I was under a cloud that cast its shadow on me. I looked at it and saw Jibrīl inside it and he called out to me, saying: 'Indeed, Allah Most High heard what your people said to you and He heard their response to you, and He has sent you the angel in charge of the mountains that you may command him with what you wish.' Then the angel of the mountains called me, greeted me with salutations of peace, and said: 'O Muhammad! I will do as you wish; if you like, I will bring together the two mountains [that stand opposite to each other at the extremities of Mecca] to crush them in between.' But I said: 'Nay, rather I hope that Allah will bring forth from among their descendants people who will worship Allah alone and associate no partners with Him.'"¹

¹ Set forth by al-Bukhārī in *al-Shaḥīḥ: Kitāb bad'u al-khalq* [The Beginning of Creation], chapter: "When one of you says, 'Amen,' as do the angels in the heaven, and they coincide with one another, he will be forgiven his past wrong actions," 3:1180 §3059. • Muslim in *al-Shaḥīḥ: Kitāb al-jihād wa al-siyar* [The

Agreed upon by al-Bukhārī and Muslim and the wording is his.

٣/٧٨. وَفِي رِوَايَةِ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ امْرَأَةً يَهُودِيَّةً أَتَتْ رَسُولَ اللَّهِ ﷺ بِشَاةٍ مَسْمُومَةٍ، فَأَكَلَ مِنْهَا، فَجِيءَ بِهَا إِلَى رَسُولِ اللَّهِ ﷺ، فَسَأَلَهَا عَنْ ذَلِكَ. فَقَالَتْ: أَرَدْتُ لَأَقْتُلَنَّكَ. قَالَ: مَا كَانَ اللَّهُ لِيُسَلِّطَكَ عَلَى ذَاكَ، قَالَ: أَوْ قَالَ: عَلَيَّ، قَالَ: قَالُوا: أَلَا نَقْتُلُهَا؟ قَالَ: لَا. قَالَ: فَمَا زِلْتُ أَعْرِفُهَا فِي لَهَوَاتِ رَسُولِ اللَّهِ ﷺ.
مُتَّفَقٌ عَلَيْهِ وَاللَّفْظُ لِمُسْلِمٍ.

78/3. Anas b. Mālik رَضِيَ اللَّهُ عَنْهُ related:

“A Jewish woman brought a poisoned cooked goat to the Allah’s Messenger ﷺ. He ate some from it (then the meat spoke out, saying that it was poisoned). Then the woman was brought to him and he asked her about the meat. She said: ‘I planned to kill you.’ He said: ‘Allah ﷻ will not enable you to do it.’ The narrator said: ‘Or he said: “He will not give you authority over me.”’ The Companions submitted: ‘(O Messenger of Allah!) Shall we not kill her?’ He said: ‘No (I have forgiven her).’ The narrator said: ‘The effect of the poison was always felt in his blessed mouth.’”¹

Agreed upon by al-Bukhārī and Muslim and the wording is his.

٤/٧٩. عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ قَالَ: غَزَوْنَا مَعَ رَسُولِ اللَّهِ ﷺ غَزْوَةَ قَيْلِ نَجْدٍ.

Book of Jihad and Military Expeditions], chapter: “On the Harm Experienced by the Prophet ﷺ at the Hands of the Pagans and Hypocrites,” 3:1420 §1795. •al-Nasā’ī in *al-Sunan al-kubrā*, 4:405 §7706. •al-Ṭabarānī in *al-Mu’jam al-awsaṭ*, 8:370 §8902.

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-hiba wa faḍlu-hā* [The Book of Gifts and their Excellence], chapter: “Accepting a gift from the idolaters,” 2:923 §2474. •Muslim in *al-Ṣaḥīḥ: Kitāb al-salām* [The salutation of peace], chapter: “On Poison,” 4:1721 §2190. •Aḥmad b. anbal in *al-Musnad*, 3:218 §13309. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “Someone hanging his sword on a tree in a journey at midday,” 4:173 §4508. •al-Ṭabarānī in *al-Mu’jam al-awsaṭ*, 3:43 §2417. •al-Bayhaqī in *al-Sunan al-kubrā*, 10:11 §19500.

فَأَدْرَكَنَا رَسُولُ اللَّهِ ﷺ فِي وَادٍ كَثِيرِ الْعِصَاهِ، فَتَزَلَّ رَسُولُ اللَّهِ ﷺ تَحْتَ شَجَرَةٍ، فَعَلَّقَ سَيْفَهُ بِغُصْنٍ مِنْ أَغْصَانِهَا، قَالَ: وَتَفَرَّقَ النَّاسُ فِي الْوَادِي يَسْتَظِلُّونَ بِالشَّجَرِ، قَالَ: فَقَالَ رَسُولُ اللَّهِ ﷺ: إِنَّ رَجُلًا أَتَانِي وَأَنَا نَائِمٌ، فَأَخَذَ السَّيْفَ، فَاسْتَيْقِظْتُ، وَهُوَ قَائِمٌ عَلَى رَأْسِي، فَلَمْ أَشْعُرْ، إِلَّا وَالسَّيْفُ صَلَّتَا فِي يَدِهِ، فَقَالَ لِي: مَنْ يَمْنَعُكَ مِنِّي؟ قَالَ: قُلْتُ: اللَّهُ، ثُمَّ قَالَ فِي الثَّانِيَةِ: مَنْ يَمْنَعُكَ مِنِّي؟ قَالَ: قُلْتُ: اللَّهُ. قَالَ: فَشَامَ السَّيْفَ، فَهَذَا جَالِسٌ، ثُمَّ لَمْ يَعْرِضْ لَهُ رَسُولُ اللَّهِ ﷺ.

مُتَّفَقٌ عَلَيْهِ وَاللَّفْظُ لِمُسْلِمٍ.

79/4. Jābir b. ‘Abd Allah ۞ related:

“We went with Allah’s Messenger toward Najd in order to participate in a battle. Allah’s Messenger found us in a valley filled with thorny trees. So Allah’s Messenger ۞ disembarked and settled under a tree, hanging his sword on one of its branches. Afterwards the people took their own spots here and there in the valley, seeking shade under the trees. Later on Allah’s Messenger ۞ informed us, saying, ‘When I was taking a nap, a man came to me, took my sword, and I woke up to find him standing over my head, and did not sense him coming although the sword was unsheathed and in his hand. He said to me, “Who will protect you from me now?” I replied, “Allah will.” He said to me a second time, “Who will protect you from me now? And I replied once more, “Allah will.” Then (afraid) he cast down the sword and here he is sitting down’—and Allah’s Messenger did not do anything to him to avenge.”¹

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Struggle and Military Expeditions], chapter: “Someone hanging his sword on a tree in a journey at midday,” 3:1065–1066 §2753–2756 and in *Kitāb al-Maghāzī* [The Book of Military Expeditions], chapter: “The expedition of Dhāt al-Riqā’,” 4:515 §3905. •Muslim in *al-Ṣaḥīḥ: Kitāb al-Faḍā’il* [The Book of Excellent Merits], chapter: “The reliance of the Prophet on Allah, exalted is He, and how Allah protected the Messenger from the people,” 4:1786 §843. •Aḥmad b. Ḥanbal in *al-Musnad*, 3:311 §14374. •al-Nasā’ī in *al-Sunan al-Kubrā*, 5:236, 267 §8772, 8852. •al-Bayhaqī in *al-Sunan al-Kubrā*, 6:319

Agreed upon by al-Bukhārī and Muslim (the wording is his).

٥ / ٨٠. عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: اسْتَأْذَنَ رَهْطٌ مِنَ الْيَهُودِ عَلَى النَّبِيِّ ﷺ فَقَالُوا: أَلَسَّامُ عَلَيْكَ، فَقُلْتُ: بَلْ عَلَيْكُمُ السَّامُ وَاللَّعْنَةُ، فَقَالَ: يَا عَائِشَةُ، إِنَّ اللَّهَ رَفِيقٌ يُحِبُّ الرَّفْقَ فِي الْأَمْرِ كُلِّهِ، قُلْتُ: أَوَلَمْ تَسْمَعْ مَا قَالُوا؟ قَالَ: قُلْتُ: وَعَلَيْكُمْ مُتَّفَقٌ عَلَيْهِ.

80/5. 'Ā'isha رَضِيَ اللَّهُ عَنْهَا, the wife of the Prophet ﷺ, reported:

"A few Jews asked permission of the Prophet ﷺ and then said: "Assāmu 'alayka (death be upon you)." I said: "And may death and curses be upon you!" He said: "O 'Ā'isha! Indeed, Allah Most High is lenient and likes leniency in every matter." I submitted: "(O Messenger of Allah!) Have you not heard what they said?" He said: "I said: "And upon you (wa 'alaykum).""¹

Agreed upon by al-Bukhārī and Muslim.

٦ / ٨١. وَفِي رِوَايَةِ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: مَرَّ يَهُودِيٌّ بِرَسُولِ اللَّهِ ﷺ فَقَالَ: أَلَسَّامُ عَلَيْكَ، فَقَالَ رَسُولُ اللَّهِ ﷺ: وَعَلَيْكَ، فَقَالَ رَسُولُ اللَّهِ ﷺ: أَتَدْرُونَ مَا يَقُولُ؟ قَالَ: أَلَسَّامُ عَلَيْكَ، قَالُوا: يَا رَسُولَ اللَّهِ، أَلَا نَقْتُلُهُ؟ قَالَ: لَا، إِذَا سَلَّمَ عَلَيْكُمْ أَهْلُ الْكِتَابِ فَقُولُوا: وَعَلَيْكُمْ.

§12613. •al-Tabarānī in *Musnad al-Shāmiyyīn*, 3:66 §1815.

¹ Set forth by •al-Bukhārī in *al-Shāḥih: Kitāb istitāba al-murtaddīn wa al-mu'ānidīn wa qitālibihim* [The Book on Demanding the Repentance of the Apostates and Reprobates, and Fighting Them], chapter: "What is to be Done When a Non-Muslim Citizen or Anyone Else Presents Himself," 6:2539 §6528. •Muslim in *al-Shāḥih: Kitāb al-birr wa al-ṣila wa al-ādāb* [The Book of Piety, Filial Duty and Good Manners], chapter: "The Virtue of Gentleness," 4:2003 §2593. •Aḥmad b. anbal in *al-Musnad*, 1:112 §902. •Abū Dāwūd in *al-Sunan: Kitāb al-adab* [The Book of Good Manners], chapter: "On Gentleness," 4:254 §4807. •Ibn Mājah in *al-Sunan: Kitāb al-adab* [The Book of Good Manners], chapter: "On Gentleness," 2:1216 §3688.

مُتَّفَقٌ عَلَيْهِ.

81/6. Anas b. Mālik رضي الله عنه related:

“A Jew passed by Allah’s Messenger ﷺ and said: ‘Assāmu ‘alayka (death be upon you).’ The Messenger of Allah ﷺ said: ‘Wa ‘alayka (and upon you).’ The Messenger of Allah ﷺ inquired of his Companions: ‘Do you know what he has said? He said: “Death be upon you.”’ The people submitted: ‘O Messenger of Allah! Shall we not kill him?’ He said: ‘No. When the People of the Book invoke peace upon you, say: “And upon you!”’”¹

Agreed upon by al-Bukhārī and Muslim.

٧/٨٢. عَنْ أَنَسِ بْنِ مَالِكٍ رضي الله عنه أَنَّ ثَمَانِينَ رَجُلًا مِنْ أَهْلِ مَكَّةَ هَبَطُوا عَلَى رَسُولِ اللَّهِ ﷺ مِنْ جَبَلِ التَّنْعِيمِ مُتَسَلِّحِينَ، يُرِيدُونَ غَرَّةَ النَّبِيِّ ﷺ وَأَصْحَابِهِ، فَأَخَذَهُمْ سِلَاحًا، فَاسْتَحْيَاهُمْ، فَأَنْزَلَ اللَّهُ ﻓِجَالًا: ﴿وَهُوَ الَّذِي كَفَّ أَيْدِيَهُمْ عَنْكُمْ وَأَيْدِيَكُمْ عَنْهُمْ بِبَطْنِ مَكَّةَ مِنْ بَعْدِ أَنْ أَظْفَرَكُمْ عَلَيْهِمْ﴾.

رَوَاهُ مُسْلِمٌ وَأَحْمَدُ وَأَبُو دَاوُدَ وَالتِّرْمِذِيُّ وَالنَّسَائِيُّ. وَقَالَ التِّرْمِذِيُّ:
هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

82/7. Anas b. Mālik رضي الله عنه related:

“(On the occasion of the treaty of ʿUdaybiya) eighty armed people came down from Mount Tan‘īm with a plan to attack the Prophet ﷺ and his Companions through a ruse. He captured them and later freed

¹ Set forth by •al-Bukhārī in *al-Shaḥīḥ: Kitāb istitāba al-murtaddīn wa al-muʿānidīn wa qitālihim* [The Book on Demanding the Repentance of the Apostates and Reprobates, and Fighting Them], chapter: “What is to be Done When a Non-Muslim Citizen or Anyone Else Presents Himself,” 6:2538 §6527. •Muslim in *al-Shaḥīḥ: Kitāb al-salām* [The salutation of peace], chapter: “The Prohibition of the People of the Scripture [Jews and Christians] from beginning with the salutation of peace, and how to respond to them,” 4:1705 §2163. •Aḥmad b. anbal in *al-Musnad*, 3:218 §13308. •Abū Yaʿlā in *al-Musnad*, 5:445 §3153.

them, allowing them to live. Then, Allah Most High revealed the verse
*And He is the One Who held back the hands of those (disbelievers) from you and your hands from them on the frontier of Mecca (near Hudaibiya) after giving you the upper hand over their (party)*¹.

Reported by Muslim, Aḥmad, Abū Dāwūd, al-Tirmidhī and al-Nasā'ī. According to al-Tirmidhī: This is a fine authentic tradition.

٨٣ / ٨. وَفِي رَوَايَةِ أَبِي هُرَيْرَةَ رضي الله عنه قَالَ: قِيلَ: يَا رَسُولَ اللَّهِ، اذْعُ عَلَى الْمُشْرِكِينَ، قَالَ: إِنِّي لَمْ أُبْعَثْ لِعَانًا، وَإِنَّمَا بُعِثْتُ رَحْمَةً. رَوَاهُ مُسْلِمٌ وَأَبُو يَعْلَى وَالبُخَارِيُّ فِي الْأَدَبِ.

83/8. And in the narration of Abū Hurayra رضي الله عنه:

"It was submitted to the Messenger of Allah ﷺ: 'Invoke a curse upon the polytheists!' He said: 'I was not sent as a curser; I have been sent only as mercy.'"³

Reported by Muslim, Abū Ya'la and al-Bukhārī in *al-Adab al-mufrad*.

٨٤ / ٩. وَفِي رَوَايَةِ عَنْهُ: قَالَ: إِنَّمَا بُعِثْتُ رَحْمَةً وَلَمْ أُبْعَثْ عَذَابًا.

¹ Qur'an 48:24.

² Set forth by •Muslim in *al-Ṣaḥīḥ*, 3:1442 §1808. •Aḥmad b. anbal in *al-Musnad*, 3:124, 290 §12276, 14122. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Striving], chapter: "Freeing Captives without Ransom," 3:61 §2688. •al-Tirmidhī in *al-Sunan: Kitāb al-Tafsīr* [The Book of Interpretation], "From Sūra al-Fath," 5:386 §3264. •al-Nasā'ī in *al-Sunan al-kubrā*, 5:202, 6:464 §8667, 11510. •Ibn Abī Shayba in *al-Muṣannaf*, 7:405 §36916. •Abū 'Awāna in *al-Musnad*, 4:291 §6782-6783. •Abd b. umayd in *al-Musnad*, 1:363 §1208.

³ Set forth by •Muslim in *al-Ṣaḥīḥ: Kitāb al-birr wa al-ṣila wa al-ādāb* [The Book of Piety, Filial Duty and Good Manners], chapter: "The Prohibition of Invoking Curses on Creatures and Other Things," 4:2006 §2599. •al-Bukhārī in *al-Adab al-mufrad*, p. 119 §321. •Abū Ya'la in *al-Musnad*, 11:35 §6174. •al-usaynī in *al-Bayān wa al-ta'rīf*, 1:283 §754. •Ibn Kathīr in *Tafsīr al-Qur'an al-'Azīm*, 3:202.

رَوَاهُ الْبَيْهَقِيُّ وَابْنُ عَسَاكِرَ.

84/9. In one tradition, Allah's Messenger ﷺ said:

"I have been sent as mercy incarnate and not as a torment."¹

Reported by al-Bayhaqī and Ibn 'Asākir.

١٠ / ٨٥ . وَفِي رِوَايَةٍ عَنْهُ: إِنَّمَا بُعِثْتُ نِعْمَةً، وَلَمْ أُبْعَثْ عَذَابًا.

رَوَاهُ أَبُو نُعَيْمٍ.

85/10. In one tradition, Allah's Messenger ﷺ said:

"I have been sent as bounty incarnate and not as a torment."²

Reported by Abu Nu'aym.

١١ / ٨٦ . وَفِي رِوَايَةٍ سَهْلِ بْنِ سَعْدٍ السَّاعِدِيِّ (رَضِيَ اللَّهُ عَنْهُ) قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: اَللّٰهُمَّ،

اغْفِرْ لِقَوْمِي فَإِنَّهُمْ لَا يَعْلَمُونَ.

رَوَاهُ ابْنُ جَبَّانَ وَابْنُ أَبِي عَاصِمٍ وَالتَّبَرَانِيُّ وَالبَيْهَقِيُّ، وَقَالَ الْهَيْثَمِيُّ:

وَرِجَالُهُ رِجَالُ الصَّحِيحِ.

86/11. Sahl b. Sa'd al-Sā'idī (رَضِيَ اللَّهُ عَنْهُ) related:

"The Messenger of Allah ﷺ said: 'O Allah! Forgive my nation, for they do not know.'"³

Reported by Ibn ʿIbbān, Ibn Abī ʿĀsim and al-Bayhaqī. Al-Haythamī said: "Its sources are reliable."

¹ Set forth by •al-Bayhaqī in *Shu'ab al-īmān*, 2:144 §1403. •Ibn 'Asākir in *Tārīkh Madīna Dimashq*, 4:92.

² Set forth by •Abū Nu'aym in *Dalā'il al-Nubuwwa*, 1:40 §2.

³ Set forth by •Ibn ʿIbbān in *al-Shaḥīḥ*, 3:254 §973. •Ibn ʿĀsim in *al-Āḥād wa al-mathānī*, 4:123 §2096. •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 6:120 §5694. •al-Bayhaqī in *Shu'ab al-īmān*, 2:164 §1448. •al-Daylamī in *Musnad al-firdaws*, 1:500 §2042. Cited by •al-Haythamī in *Majma' al-zawā'id*, 6:117.

٨٧ / ١٢. عَنِ الْإِمَامِ أَبِي يُوسُفَ قَالَ: إِنَّ رَسُولَ اللَّهِ ﷺ عَفَا عَنْ مَكَّةَ وَأَهْلِهَا وَقَالَ: مَنْ أَغْلَقَ عَلَيْهِ بَابَهُ فَهُوَ آمِنٌ وَمَنْ دَخَلَ الْمَسْجِدَ فَهُوَ آمِنٌ وَمَنْ دَخَلَ دَارَ أَبِي سُفْيَانَ فَهُوَ آمِنٌ. وَنَهَى عَنِ الْقَتْلِ إِلَّا نَفَرًا قَدْ سَمَّاهُمْ إِلَّا أَنْ يُقَاتِلَ أَحَدًا فَيُقْتَلَ وَقَالَ لَهُمْ حِينَ اجْتَمَعُوا فِي الْمَسْجِدِ: مَا تَرَوْنَ أَنِّي صَانِعٌ بِكُمْ؟ قَالُوا: خَيْرًا أَخَ كَرِيمٍ وَابْنُ أَخٍ كَرِيمٍ. قَالَ: اذْهَبُوا فَأَنْتُمْ الطُّلُقَاءُ.

رَوَاهُ الشَّافِعِيُّ وَابْنُ حِبَّانَ وَالرَّبِيعُ.

87/12. Imam Abū Yūsuf said:

“Allah’s Messenger ﷺ forgave the people of Mecca and said: ‘The one who shuts his door is safe; the one who enters the Sacred Mosque is safe; and the one who enters the house of Abū Sufyān is safe.’ He forbade killing, except for a few (blasphemous) people whose names were declared. He commanded to kill the polytheists who wage war against any Muslim. When people [among Quraysh] gathered in the Sacred Mosque, he said: ‘Do you know how I am going to treat you?’ They said: ‘We expect the well-wishing for us as you are an esteemed brother and a son of an esteemed brother!’ He said: ‘Leave, for you are all free.’”¹

Reported by al-Shāfi‘ī, Ibn ibbān and al-Rabī‘.

¹ Recorded by •al-Shāfi‘ī in *al-Umm*, 7:361. •Ibn ibbān in *al-Thiqāt*, 2:56. •al-Rabī‘ in *al-Musnad*, p. 170 §419. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:118 §18055.

الْبَابُ التَّاسِعُ

وَفَاءُ الْعَهْدِ وَالْعَمَلُ بِالْمَوَاقِفِ مَعَهُمْ

CHAPTER NINE

FULFILMENT OF AGREEMENTS AND
COVENANTS WITH NON-MUSLIMS

١ / ٨٨ . عَنْ عُمَرَ بْنِ الْخَطَّابِ رضي الله عنه قَالَ: وَأَوْصِيَهُ بِذِمَّةِ اللَّهِ وَذِمَّةِ رَسُولِهِ ﷺ أَنْ يُوَفَّى لَهُمْ وَعَهْدُهُمْ وَأَنْ يُقَاتَلَ مِنْ وَرَائِهِمْ وَلَا يُكَلَّفُوا إِلَّا طَاقَتَهُمْ.
رَوَاهُ الْبُخَارِيُّ وَابْنُ أَبِي شَيْبَةَ وَابْنُ جَبَّانٍ وَالْقُرَشِيُّ.

88/1. ‘Umar b. al-Khaṭṭāb رضي الله عنه stated (the following legacy before his martyrdom):

“I counsel him [the ruler] to uphold the guarantee of Allah and His Messenger ﷺ, and to fulfil the terms of their treaty, and to fight in their defence. I also counsel him not to overburden them with more than they can bear.”¹

Reported by al-Bukhārī and Ibn Abī Shayba, Ibn ʿibbān and al-Qurashī.

٢ / ٨٩ . عَنْ سُلَيْمِ بْنِ عَامِرٍ يَقُولُ: كَانَ بَيْنَ مُعَاوِيَةَ وَبَيْنَ أَهْلِ الرُّومِ عَهْدٌ وَكَانَ يَسِيرُ فِي بِلَادِهِمْ حَتَّى إِذَا انْقَضَى الْعَهْدُ أَغَارَ عَلَيْهِمْ. فَإِذَا رَجُلٌ عَلَى دَابَّةٍ أَوْ عَلَى فَرَسٍ وَهُوَ يَقُولُ: اللَّهُ أَكْبَرُ وَفَاءٌ لَا عَدْرٌ، وَإِذَا هُوَ عَمْرُو بْنُ عَبْسَةَ. فَسَأَلَهُ مُعَاوِيَةُ عَنْ ذَلِكَ فَقَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: مَنْ كَانَ بَيْنَهُ وَبَيْنَ قَوْمٍ عَهْدٌ فَلَا يَحِلُّنَّ عَهْدًا وَلَا يَشُدَّنَّهُ حَتَّى يَمُضِيَ أَمْدُهُ أَوْ يَنْبَذَ إِلَيْهِمْ عَلَى سَوَاءٍ. قَالَ: فَرَجَعَ مُعَاوِيَةُ بِالنَّاسِ.
رَوَاهُ أَحْمَدُ وَالتِّرْمِذِيُّ وَاللَّفْظُ لَهُ وَالطَّيَالِسِيُّ. وَقَالَ التِّرْمِذِيُّ: هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

89/2. Sulaym b. ‘Āmir related:

¹ Set forth by ‘al-Bukhārī in *al-Ṣaḥīḥ*, 3:1111 §2887 and 1:469 §1328. •Ibn Abī Shayba in *al-Muṣannaf*, 7:436 §37059. •Ibn ʿibbān in *al-Ṣaḥīḥ*, 15:354 §6917. •al-Qurashī in *al-Kharāj*, p. 80 §232.

“There was a treaty between Mu‘āwiya and the Byzantines, and he (Mu‘āwiya) approached their land so he could attack them when the treaty would end. Suddenly, he saw a man on a horse, saying: ‘Allah is the Greatest! Fulfil the promise; do not break it!’ And when they looked, they found that he was ‘Amr b. ‘Abasa. Mu‘āwiya questioned him (about that), and ‘Amr said: ‘I heard Allah’s Messenger ﷺ say: “When one has a treaty with a people, he must not breach it until its term comes to an end or they openly declare the cancellation of the treaty equally in retribution.”’ Upon hearing that, Mu‘āwiya returned with his troops.”¹

Reported by Aḥmad b. Ḥanbal, al-Tirmidhī (the wording is his) and al-Ṭayālīsī. Al-Tirmidhī said: “This is a fine authentic tradition.”

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 4:111 §17056. •al-Tirmidhī in *al-Sunan*, 4:143 §1580. •al-Ṭayālīsī in *al-Musnad*, 1:157 §1155.

أَلْبَابُ الْعَاشِرِ

إِعَانَةُ شُيُوخِهِمْ وَضُعْفَائِهِمُ الْمَالِيَّةُ

CHAPTER TEN

FINANCIAL SUPPORT FOR THE
ELDERLY, INFIRM AND FEEBLE
AMONGST THE NON-MUSLIMS

١/٩٠. عَنْ عَبْدِ اللَّهِ بْنِ حَذَرْدٍ الْأَسْلَمِيِّ قَالَ: لَمَّا قَدِمْنَا مَعَ عُمَرَ بْنِ الْخَطَّابِ الْجَابِيَةَ، إِذَا هُوَ بِشَيْخٍ مِنْ أَهْلِ الذِّمَّةِ يَسْتَطْعِمُ. فَسَأَلَ عَنْهُ، فَقُلْنَا: يَا أَمِيرَ الْمُؤْمِنِينَ، هَذَا رَجُلٌ مِنْ أَهْلِ الذِّمَّةِ كَبُرَ وَضَعُفٌ. فَوَضَعَ عَنْهُ عُمَرُ الْجِزْيَةَ الَّتِي فِي رَقَبَتِهِ. وَقَالَ: كَلَفْتُمُوهُ الْجِزْيَةَ حَتَّى إِذَا ضَعُفَ تَرَكْتُمُوهُ يَسْتَطْعِمُ. فَأَجْرَى عَلَيْهِ مِنْ بَيْتِ الْمَالِ عَشْرَةَ دَرَاهِمَ، وَكَانَ لَهُ عِيَالٌ.
رَوَاهُ ابْنُ عَسَاكِرَ.

90/1. ‘Abd Allāh b. Ḥadrad al-Aslamī said:

“When we reached al-Jābiya with ‘Umar b. al-Khaṭṭāb رضي الله عنه, there was an elderly man from the non-Muslim citizens who was begging of others and asking for food. ‘Umar inquired about him and we said: ‘O Commander of the Faithful! This is a man from the non-Muslim citizens. He is elderly and weak.’ Upon learning of this, ‘Umar exempted him from the tax that was due from him and said: ‘You burdened him with the payment of the tax and when he became weak you left him to beg!’ Then ‘Umar provided him with ten dirhams [monthly] from the public treasury because he had his family.”¹

Reported by Ibn ‘Asākir.

٢/٩١. إِنَّ أَمِيرَ الْمُؤْمِنِينَ عُمَرَ رضي الله عنه مَرَّ بِشَيْخٍ مِّنْ أَهْلِ الذِّمَّةِ، يَسْأَلُ عَلَى أَبْوَابِ النَّاسِ. فَقَالَ: مَا أَنْصَفْنَاكَ أَنْ كُنَّا أَخَذْنَا مِنْكَ الْجِزْيَةَ فِي شَيْئِكَ، ثُمَّ ضَعَعْنَاكَ فِي كِبَرِكَ. قَالَ: ثُمَّ أَجْرَى عَلَيْهِ مِنْ بَيْتِ الْمَالِ مَا يَصْلُحُهُ.
رَوَاهُ أَبُو عُبَيْدٍ الْقَاسِمُ بْنُ سَلَامٍ فِي الْأَمْوَالِ.

¹ Set forth by •Ibn ‘Asākir in *Tārīkh Dimashq al-kabīr*, 27:334.

91/2. Abū 'Ubayd al-Qāsim b. Salām mentioned in *Kitāb al-Amwāl*:

"The Commander of the faithful, 'Umar رضي الله عنه, passed by an elderly man amongst the non-Muslim citizens who was begging at people's doors. 'Umar said to him: 'We have not been fair to you, as we have taken the tax from you when you were younger but left you in helplessness in your old age.' After that, 'Umar issued instructions for the man to receive enough money from the public treasury that would take care of his needs."¹

Reported by Abū 'Ubayd al-Qāsim b. Sallām in *al-Amwāl*.

٣/٩٢. مَرَّ عُمَرُ بْنُ الْخَطَّابِ رضي الله عنه بِبَابِ قَوْمٍ وَعَلَيْهِ سَائِلٌ يَسْأَلُ، شَيْخٌ كَبِيرٌ ضَرِيرٌ
الْبَصَرِ، فَضَرَبَ عَضْدَهُ مِنْ خَلْفِهِ، وَقَالَ: مِنْ أَيِّ أَهْلِ الْكِتَابِ أَنْتَ؟ فَقَالَ: يَهُودِيٌّ.
قَالَ: فَمَا أَلْجَأَكَ إِلَى مَا أَرَى؟ قَالَ أَسْأَلُ الْجِزْيَةَ وَالْحَاجَةَ وَالسَّنَّ. قَالَ: فَأَخَذَ
عُمَرُ يَدَهُ وَذَهَبَ إِلَى مَنْزِلِهِ فَرَضَخَ لَهُ بِشَيْءٍ مِنَ الْمَنْزِلِ. ثُمَّ أَرْسَلَ إِلَى خَازِنِ بَيْتِ
الْمَالِ، فَقَالَ: انْظُرْ إِلَى هَذَا وَضُرْبَائِهِ، فَوَاللَّهِ، مَا أَنْصَفْتَاهُ أَنْ أَكَلْنَا شَيْبَتَهُ، ثُمَّ نَخَذُلُهُ
عِنْدَ الْهَرَمِ ﴿إِنَّمَا الصَّدَقَتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ﴾ وَالْفُقَرَاءُ هُمُ الْمُسْلِمُونَ، وَهَذَا
مِنَ الْمَسَاكِينِ مِنْ أَهْلِ الْكِتَابِ. وَوَضَعَ عَنْهُ الْجِزْيَةَ وَعَنْ ضُرْبَائِهِ.
رَوَاهُ أَبُو يُوسُفَ.

92/3. Imam Abū Yūsuf described the same report in *Kitāb al-kharāj* in the following words:

"'Umar b. al-Khaṭṭāb رضي الله عنه passed by the door of some people and there was an elderly blind man there, begging. 'Umar put his hand on his arm from behind and asked: 'To which group amongst the People of the Book do you belong?' The man replied: 'I am a Jew.' 'Umar then asked him: 'So why are you begging?' 'I am begging for money,' the man said, 'so I can pay the tax and fulfil my needs, because I am too old to earn money.' 'Umar took him by the hand and led him to his home and gave him a few things, then he sent him to the treasurer

¹ Set forth by •Abū 'Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, p. 57 §119.

of the public treasury and said: 'Take care of him and those like him, for by Allah, we have not treated him fairly if we benefited from him in his younger days but left him helpless in his old age!' [Then he recited the verse] *«Indeed, alms (Zakāt) are meant for the poor and the indigent»*¹ and the poor are amongst the Muslims and this one is from the indigent amongst the People of the Book. So 'Umar exempted him and those like him from the payment of taxes."²

Reported by Abū Yūsuf.

• قَالَ مَالِكٌ: مَضَتْ السُّنَّةُ أَنْ لَا جِزْيَةَ عَلَى نِسَاءِ أَهْلِ الْكِتَابِ، وَلَا عَلَى صِبْيَانِهِمْ، وَأَنَّ الْجِزْيَةَ لَا تُؤْخَذُ إِلَّا مِنَ الرِّجَالِ الَّذِينَ قَدْ بَلَغُوا الْحُلُمَ.

Imam Mālik said: "It was the rule (in Muslim states) that the women and children of the People of the Book were not liable to pay the security tax; it was collected only from the adults."³

٩٣/٤. وَقَدْ رُوِيَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: لَا جِزْيَةَ عَلَى عَبْدٍ وَفِي رَفْعِهِ نَظَرٌ وَهُوَ ثَابِتٌ عَنِ ابْنِ عُمَرَ.

93/4. It is related that Allah's Messenger ﷺ said:

"The security tax is not obligatory for the hired servants."⁴

• قَالَ ابْنُ الْمُنْذِرِ: أَجْمَعَ كُلُّ مَنْ نَحَفَظُ عَنْهُ مِنْ أَهْلِ الْعِلْمِ عَلَى أَنَّهُ لَا جِزْيَةَ عَلَى الْعَبْدِ.

Ibn al-Mundhir said: "All of the jurists from whom we

¹ Qur'ān 9:60.

² Set forth by •Abū Yūsuf in *Kitāb al-kharāj*, p. 136.

³ Set forth by •Mālik in *al-Muwattā'*, 2:280.

⁴ •Ibn al-Qayyim, *Aḥkām ahl al-Dhimma*, 1:172. This tradition is considered *marfū'* but the same is proved from the authority of Ibn 'Umar ؓ.

learned concur that the security tax is not obligatory for the (hired house) servant.”¹

• عَنْ أَسْلَمَ مَوْلَى عُمَرَ إِنَّ عُمَرَ كَتَبَ إِلَى أُمَرَاءِ الْأَجْنَادِ: أَنْ لَا يَضْرِبُوا
الْجَزِيَّةَ عَلَى النِّسَاءِ، وَلَا عَلَى الصِّبْيَانِ.
رَوَاهُ عَبْدُ الرَّزَّاقِ وَالْبَيْهَقِيُّ.

According to Aslam, a freed slave of ‘Umar رضى الله عنه: “‘Umar رضى الله عنه wrote a letter to the military commanders stating that they should not impose taxes on non-Muslim women or children.”²

Reported by ‘Abd al-Razzāq and al-Bayhaqī.

¹ Cited by •Ibn al-Qayyim in *Aḥkām ahl al-Dhimma*, 1:172.

² Set forth by •‘Abd al-Razzāq in *al-Muṣannaf*, 6:85 §10090. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:195 §18463.

الْبَابُ الْحَادِي عَشَرَ

الْأَحْكَامُ الْمَأْخُودَةُ مِنْ أَحْكَامِ أَهْلِ الذِّمَّةِ

لِابْنِ الْقَيِّمِ

CHAPTER ELEVEN

EXTRACTS FROM IBN AL-QAYYIM'S
A KĀM AHL AL-DHIMMA

The preceding chapters of the book have expressly demonstrated in the light of proofs from the Quran, books on hadith, exegesis, jurisprudence and beliefs what commands Islam has issued to establish pleasant and peaceful relations with the non-Muslims. Ibn al-Qayyim, the honourable disciple of Ibn Taymiyya, has written a voluminous book titled *Aḥkām Ahl al-Dhimma* that has taken a detailed account of commands with regard to relations with non-Muslims. In view of the significance and utility of the book, the important rulings about non-Muslims have been reproduced here for our readers.

II.I ENTRANCE OF NON-MUSLIMS IN THE SACRED MOSQUE

Describing his point of view about non-Muslims entering the mosque, Ibn al-Qayyim writes:

إِنْ دَخَلُوهَا بِإِذْنِ مُسْلِمٍ فَفِيهِ قَوْلَانِ لِلْفُقَهَاءِ، هُمَا رَوَايَتَانِ عَنْ أَحْمَدَ.

Regarding the case where non-Muslim citizens enter the Precincts of the Sacred Mosque with the permission of a Muslim, the jurists have two opinions, both of which are reported positions from [Imam] Aḥmad.

II.I.I FIRST REPORT

وَوَجْهُ الْجَوَازِ أَنَّ رَسُولَ اللَّهِ ﷺ أَنْزَلَ الْوُفُودَ مِنَ الْكُفَّارِ فِي مَسْجِدِهِ، فَأَنْزَلَ فِيهِ وَفْدَ نَجْرَانَ وَوَفْدَ ثَقِيفٍ وَغَيْرَهُمْ.

The angle by which it is judged permissible is the fact that the Messenger of Allah ﷺ received delegations of disbelievers inside his mosque. He received the delegation of Najrān and Thaqīf and others.¹

¹ •Ibn al-Qayyim, *Aḥkām ahl al-Dhimma*, 1:406.

It is reported by Aḥmad b. anbal and Abū Dāwūd from ‘Uthmān b. Abī al-‘Āṣ:

إِنَّ وَفْدَ ثَقِيفٍ قَدِمُوا عَلَى رَسُولِ اللَّهِ ﷺ فَأَنْزَلَهُمُ الْمَسْجِدَ.

“The delegation of Thaqīf went to see Allah’s Messenger ﷺ, and he hosted them in the mosque.”¹

Reported by Aḥmad and Abū Dāwūd, and its sources are reliable.

‘Abd al-Razzāq has narrated on the authority of Ibn Jurayj:

أَنْزَلَ النَّبِيُّ ﷺ وَفْدَ ثَقِيفٍ فِي الْمَسْجِدِ، وَبَنَى لَهُمْ فِيهِ الْخِيَامَ، يَرَوْنَ النَّاسَ حِينَ يُصَلُّونَ وَيَسْمَعُونَ الْقُرْآنَ.

“The Prophet ﷺ received the delegation of Thaqīf inside the mosque and pitched a tent for them inside of it. They would see the people as they came for prayer and would hear them recite the Qur’ān.”²

Reported by ‘Abd al-Razzāq.

According to al-Bayhaqī, Ibn Sa’d and Ibn al-Qayyim, Muḥammad b. Ja’far said:

لَمَّا قَدِمَ وَفْدُ نَجْرَانَ عَلَى رَسُولِ اللَّهِ ﷺ دَخَلُوا عَلَيْهِ مَسْجِدَهُ بَعْدَ الْعَصْرِ.

“When the Najrān delegation came to see Allah’s Messenger ﷺ, they entered in upon him in his mosque after the late

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 4:218 §17942. •Abū Dāwūd in *al-Sunan*, *Kitāb al-kharāj wa al-imāra wa al-fay’* [The Book of Land Tax, Leadership, and War Spoils Captured without Fighting], chapter: “What has been Reported about Ṭā’if,” 3:163 §3026. •al-Ṭabarānī in *al-Mu’jam al-Kabīr*, 9:54 §8372. •al-Bayhaqī in *al-Sunan al-kubrā*, 2:444 §4131. •Ibn Khuzayma in *al-Ṣaḥīḥ*, 2:285 §1328. The narrators of the above hadith are authentic.

² Narrated by •‘Abd al-Razzāq in *al-Muṣannaḥ*, 1:414 §1622.

noon [ʿAṣr] prayer.”¹

Reported by al-Bayhaqī.

Ibn al-Qayyim states about Najrān delegation’s stay in the Prophetic mosque:

وَقَدْ مَكَنَ النَّبِيُّ ﷺ وَفَدَ نَصَارَى نَجْرَانَ مِنْ صَلَاتِهِمْ فِي مَسْجِدِهِ إِلَى قِبْلَتِهِمْ.

“The Prophet ﷺ enabled the Christian delegation of Najrān to offer their prayers and face their direction of prayer [qibla] in his mosque.”²

11.1.2 SECOND REPORT

قَالَ سَعِيدُ بْنُ الْمُسَيَّبِ: كَانَ أَبُو سُفْيَانَ يَدْخُلُ مَسْجِدَ الْمَدِينَةِ وَهُوَ عَلَى شِرْكِهِ.

Saʿīd b. al-Musayyib said: “Abū Sufyān would enter the mosque of Medina during his time as an idolater.”³

When, before the conquest of Mecca, the idolaters of Mecca supported Banū Bakr against Banū Khuzāʿah, the Udaybiya Treaty between the believers and the idolaters became void. To revive this peace treaty, Abū Sufyān (who had not yet embraced faith) came to the Prophet ﷺ in Medina and entered the Mosque. Ibn Hishām furnishes its details:

فَقَامَ أَبُو سُفْيَانَ فِي الْمَسْجِدِ، فَقَالَ: أَيُّهَا النَّاسُ، إِنِّي قَدْ أُجِرْتُ بَيْنَ

¹ Narrated by •al-Bayhaqī in *Dalāʾil al-Nubuwwa*, 5:382. •Ibn Saʿd in *al-Ṭabaqāt al-kubrā*, 1:357. •Ibn al-Qayyim in *Zād al-maʿād*, 3:629. •al-Dhahabī in *Tārīkh al-Islām*, 2:695.

² •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:822.

³ Ibid, 1:406.

النَّاسِ. ثُمَّ رَكِبَ بَعِيرَهُ فَأَنْطَلَقَ.

There, he stood up and said: 'I have received a guarantee of protection among the people!' Then he mounted his camel and departed."¹

11.1.3 THIRD REPORT

وَقَدِمَ عُمَيْرُ بْنُ وَهَبٍ - وَهُوَ مُشْرِكٌ - فَدَخَلَ الْمَسْجِدَ وَالنَّبِيَّ ﷺ فِيهِ،
لِيَفْتِكَ بِهِ، فَرَزَقَهُ اللَّهُ تَعَالَى الْإِسْلَامَ.

‘Umayr b. Wahb—who at the time was an idolater—arrived in Medina and entered the mosque while the Prophet ﷺ was inside in order to assassinate him, but Allah blessed him with Islam.²

The books on history and *sīra* have expanded upon the entrance of ‘Umayr b. Wahb who was yet an idolater. His son, Wahb b. ‘Umayr was a prisoner of the battle of Badr and he came to Medina to seek his freedom while the Prophet ﷺ was inside the Mosque. When ‘Umar stopped him, the Prophet ﷺ said: “‘Umar! Leave him”, and said to him: “‘Umayr! Get closer.” ‘Umayr b. Wahb then professed Islam. Al-Ṭabarānī has narrated it in *al-Mu‘jam al-kabīr*. Ibn al-Athīr, Ibn Kathīr and other books on history have related this incident in detail.³

Concluding the discussion, Ibn al-Qayyim describes the reason of non-Muslims’ entrance in the Prophetic Mosque:

وَأَمَّا دُخُولُ الْكُفَّارِ مَسْجِدَ النَّبِيِّ ﷺ فَكَانَ ذَلِكَ لِمَا كَانَ بِالْمُسْلِمِينَ
حَاجَةً إِلَى ذَلِكَ، وَلَآئِهِمْ كَانُوا يُحَاطِيُونَ النَّبِيَّ ﷺ فِي عُهْدِهِمْ، وَيُؤَدُّونَ

¹ •Ibn Hishām, *al-Sīra al-Nabawiyya*, 5:49–51. •Ibn Kathīr, *al-Bidāya wa al-nihāya*, 4:280. •al- alabī, *al-Sīra al- alabiyya*, 3:6–8.

² •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:406.

³ Narrated by •al-Ṭabarānī in *al-Mu‘jam al-kabīr*, 17:58 §118. •Ibn al-Athīr in *al-Kāmil fī al-tārīkh*, 2:30–31. •Ibn Kathīr in *al-Bidāya wa al-nihāya*, 3:313–314. •al-Haythamī in *Majma‘ al-zawā‘id*, 8:284–285.

إِلَيْهِ الرِّسَائِلَ، وَيَحْمِلُونَ مِنْهُ الْأَجُوبَةَ وَيَسْمَعُونَ مِنْهُ الدَّعْوَةَ، وَلَمْ يَكُنِ النَّبِيُّ ﷺ لِيَخْرُجَ مِنَ الْمَسْجِدِ لِكُلِّ مَنْ قَصَدَهُ مِنَ الْكُفَّارِ، فَكَانَتْ الْمَصْلَحَةُ فِي دُخُولِهِمْ.

As for disbelievers entering the Prophet's mosque ﷺ, such was done when the Muslims were in need of that, and was also because those disbelievers [who entered it] were addressing the Prophet ﷺ in their peace treaties and delivering official messages as emissaries and bringing back [his replies], and were also hearing his invitation [to Islam]. The Prophet ﷺ did not make it his habit to go out of the mosque to meet with those disbelievers who came to see him, and thus their entering the mosque to see him was a Shariah countenanced benefit.¹

11.2 VISITING THE NON-MUSLIMS WHEN THEY ARE SICK

The non-Muslims should be visited when they fall sick out of human sentiments. Ibn al-Qayyim has narrated different reports and incidents in this regard, which are described here in detail.

١. قَالَ الْمَرْوَزِيُّ: بَلَغَنِي أَنَّ أَبَا عَبْدِ اللَّهِ سُئِلَ عَنْ رَجُلٍ لَهُ قَرَابَةٌ نَصْرَانِيٌّ يَعُودُهُ؟ قَالَ: نَعَمْ.

1. Al-Marwadhī said: "It has reached me that Abū 'Abd Allāh [Imam Aḥmad b. anbal] was asked about a man who had close relatives who were Christian and if he should visit them when they are ill. He replied: 'Yes.'"

٢. قَالَ الْأَثْرَمُ: وَسَمِعْتُ أَبَا عَبْدِ اللَّهِ يُسْأَلُ عَنِ الرَّجُلِ لَهُ قَرَابَةٌ نَصْرَانِيٌّ يَعُودُهُ؟ قَالَ: نَعَمْ، قِيلَ لَهُ: نَصْرَانِيٌّ. قَالَ: أَرَجُو أَلَا تَضِيقُ الْعِيَادَةُ.

2. Al-Athram said: "I heard Abū 'Abd Allāh being asked

¹ Narrated by •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 17:58 §118. •Ibn Kathīr in *al-Bidāya wa al-nihāya*, 3:313–314. •Ibn al-Athīr in *al-Kāmil fī al-tārīkh*, 2:30–31. •al-Haythamī in *Majma' al-zawā'id*, 8:284–285.

about a man who had close relatives who were Christian, and whether he should visit them when they are ill. He replied: 'Yes.' It was asked: '[Should they be visited] even though they are Christians?' and he said: 'Hopefully, visits to the sick are not constrictive as such.'"

٣. قَالَ الْأَثْرَمُ: وَقُلْتُ لَهُ مَرَّةً أُخْرَى يَعُودُ الرَّجُلُ الْيَهُودَ وَالنَّصَارَى؟
قَالَ: أَلَيْسَ عَادَ النَّبِيُّ ﷺ الْيَهُودِيَّ وَدَعَاهُ إِلَى الْإِسْلَامِ؟

3. Al-Athram also said: "On another occasion I asked him if a person is allowed to visit a sick Jew or a Christian, and he replied: 'Did the Prophet ﷺ not visit a Jewish man and call him to Islam?'"¹

٤. قَالَ أَبُو مَسْعُودٍ الْأَصْبَهَانِيُّ: سَأَلْتُ أَحْمَدَ بْنَ حَنْبَلٍ عَنْ عِيَادَةِ الْفَرَابَةِ
وَالْجَارِ النَّصْرَانِيِّ. قَالَ: نَعَمْ.

4. Abū Mas'ūd al-Aṣbahānī said: "I asked Aḥmad b. anbal if it was allowed to visit a close relative and neighbour who was Christian, and he replied: 'Yes.'"²

٥. وَثَبِتَ عَنِ النَّبِيِّ ﷺ أَنَّهُ عَادَ عَبْدَ اللَّهِ بْنَ أَبِي ابْنِ سَلُولٍ رَأْسَ
الْمُنَافِقِينَ.

5. It is recorded that the Prophet ﷺ visited 'Abd Allāh b. Ubayy b. Salūl, the chief of the hypocrites, when the latter was ill.³

After these reports from Ibn al-Qayyim, it seems worthwhile to

¹ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 212 §597. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:427.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 212 §598. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:427.

³ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:430.

mention a few hadiths on the subject.

1. Narrated from Anas b. Mālik رضي الله عنه in *Ṣaḥīḥ al-Bukhārī*, *Musnad Aḥmad* and *Sunan Abī Dāwūd*, the Prophet ﷺ said:

كَانَ غُلَامٌ يَهُودِيٌّ يَخْدُمُ النَّبِيَّ ﷺ فَمَرِضَ، فَأَتَاهُ النَّبِيُّ ﷺ يَعُودُهُ، فَقَعَدَ عِنْدَ رَأْسِهِ، فَقَالَ لَهُ: أَسْلِمَ. فَنَظَرَ إِلَى أَبِيهِ وَهُوَ عِنْدَهُ، فَقَالَ لَهُ: أَطِيعْ أَبَا الْقَاسِمِ ﷺ. فَأَسْلَمَ، فَخَرَجَ النَّبِيُّ ﷺ وَهُوَ يَقُولُ: الْحَمْدُ لِلَّهِ الَّذِي أَنْقَذَهُ مِنَ النَّارِ.

It is reported that Anas رضي الله عنه said: "There was a young Jewish boy who used to serve the Prophet ﷺ. When he fell ill, the Prophet went to visit him. He sat by his side and said to him: 'Embrace Islam.' Then, the boy looked at his father, who was by his side, and his father said to him: 'Obey Abū al-Qāsim [the Prophet ﷺ],' and so the boy embraced Islam. As the Prophet ﷺ left, he said: 'All praise is due to Allah who delivered him from Hellfire!'"¹

In another narration of this report, from Aḥmad and Abū Dāwūd, it is mentioned:

فَخَرَجَ النَّبِيُّ ﷺ وَهُوَ يَقُولُ: الْحَمْدُ لِلَّهِ الَّذِي أَنْقَذَهُ بِي مِنَ النَّارِ.

"As the Prophet ﷺ left he said: 'All praise is due to Allah who, through me, delivered him from Hellfire!'"²

2. According to *Musnad Aḥmad* and *Sunan Abī Dāwūd*, Usāma b. Zayd رضي الله عنه narrates:

¹ Narrated by al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-janāza* [The Book of the Funeral Prayer], chapter: "When a Young Boy Embraces Islam and Dies, should He be Prayed over, and should He be Invited to Islam?" 1:455 §1290, and also in *al-Adab al-mufrad*, 1:185 §524. •Abū Ya'la in *al-Musnad*, 6:93 §3350. •al-Bayhaqī in *al-Sunan al-kubrā*, 3:383 §6389.

² Narrated by Aḥmad b. anbal in *al-Musnad*, 3:280 §§14009, 14010. •Abū Dāwūd in *al-Sunan: Kitāb al-janā'iz* [The Book of Funeral Rites], chapter: "On Visiting a Non-Muslim Citizen," 3:185 §3095.

خَرَجَ رَسُولُ اللَّهِ ﷺ يَعُودُ عَبْدَ اللَّهِ بْنَ أَبِي فِي مَرَضِهِ الَّذِي مَاتَ فِيهِ.

“The Prophet ﷺ went out to visit ‘Abd Allāh b. Ubayy when the latter was in the throes of his sickness of which he was to die.”¹

Reported by Aḥmad, Abū Dāwūd (the wording is his), and al- ākim. Al- ākim said: “This is an authentic tradition in conformity with the stipulation of al-Bukhārī and Muslim.”

11.3 ATTENDING THE FUNERALS OF NON-MUSLIMS

The funerals of the People of the Book or idolaters can be attended for condolence. Ibn al-Qayyim serves in detail different episodes as evidence.

١. قَالَ مُحَمَّدُ بْنُ مُوسَى: قُلْتُ لِأَبِي عَبْدِ اللَّهِ: يُشِيعُ الْمُسْلِمُ جِنَازَةَ الْمُشْرِكِ؟ قَالَ: نَعَمْ.

1. Muḥammad b. Mūsā said: “I asked Abū ‘Abd Allāh [Imam Aḥmad]: ‘Can a Muslim follow the funeral procession of an idolater?’ He said: ‘Yes.’”²

٢. وَقَالَ مُحَمَّدُ بْنُ الْحَسَنِ بْنِ هَارُونَ: قِيلَ لِأَبِي عَبْدِ اللَّهِ: وَيَشْهَدُ جِنَازَتَهُ؟ قَالَ: نَعَمْ، نَحْنُ مَا صَنَعَ الْحَارِثُ بْنُ أَبِي رَبِيعَةَ؛ كَانَ شَهِدَ جِنَازَةَ أُمِّهِ.

2. Muḥammad b. al- āsan b. Hārūn said: “Abū ‘Abd Allāh [Imam Aḥmad] was asked: ‘May one attend his [the

¹ Narrated by •Aḥmad b. anbal in *al-Musnad*, 5:201 §21806. •Abū Dāwūd in *al-Sunan: Kitāb al-janā'iz* [The Book of Funeral Rites], chapter: “On Visiting the Sick,” 3:184 §3094. •al- ākim in *al-Mustadrak*, 1:491 §1262. •al-Ṭabarānī in *al-Mu'jam al-kabīr*, 1:163 §390. •al-Maqdisī in *al-Aḥādith al-mukhtāra*, 4:117 §1328. The narrators of this chain of transmission are all reliable.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 218 §619. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:432.

idolater's] funeral?' He replied: 'Yes, that is what al- āarith b. Abī Rabī'a did when he attended his mother's funeral.'"¹

٣. قَالَ أَبُو طَالِبٍ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنِ الرَّجُلِ يَمُوتُ وَهُوَ يَهُودِيٌّ، وَلَهُ وَلَدٌ مُسْلِمٌ كَيْفَ يَصْنَعُ؟ قَالَ: يَرْكَبُ دَابَّتَهُ وَيَسِيرُ أَمَامَ الْجِنَازَةِ.

3. Abū Ṭālib said: "I asked Abū 'Abd Allah [Imam Aḥmad] about what one should do if a Jewish man dies and he has a son who is Muslim. He replied: 'He should mount his animal and lead the funeral procession.'"²

٤. عَنْ عَامِرِ بْنِ شَقِيقٍ، عَنْ أَبِي وَائِلٍ، قَالَ: مَاتَتْ أُمِّي نَصْرَانِيَّةً، فَأَتَيْتُ عُمَرَ فَسَأَلْتُهُ، فَقَالَ: ارْكَبْ فِي جِنَازَتِهَا وَسِرْ أَمَامَهَا.

4. It is reported on the authority of 'Āmir b. Shaqīq, on the authority of Abū Wā'il, who said: "My mother, who was a Christian, died so I went to 'Umar and asked him about the matter. He said: 'Mount your animal, join her funeral procession and travel at the head of it.'"³

٥. قَالَ الْخَلَّالُ: عَنْ عَبْدِ اللَّهِ بْنِ كَعْبٍ بْنِ مَالِكٍ عَنْ أَبِيهِ، قَالَ: جَاءَ قَيْسُ بْنُ شَسَّاسٍ إِلَى النَّبِيِّ ﷺ، فَقَالَ: إِنَّ أُمَّهُ تُوفِّيتُ وَهِيَ نَصْرَانِيَّةٌ، وَهُوَ يُحِبُّ أَنْ يُخْضَرَهَا. فَقَالَ لَهُ النَّبِيُّ ﷺ: ارْكَبْ دَابَّتَكَ وَسِرْ أَمَامَهَا.

5. Al-Khallāl said: "It is reported on the authority of 'Abd Allah b. Ka'b b. Mālik, on the authority of his father, who said: 'Qays b. Shammās went to the Prophet ﷺ and informed

¹ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 218 §620. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:432.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 218 §621. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:433.

³ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 218 §622. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:433.

him that his mother, who was a Christian, had died, and that he wished to attend her funeral. The Prophet ﷺ said to him: "Mount your animal and travel at the head of the procession."¹

٦. وَقَالَ حَنْبَلٌ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنِ الْمُسْلِمِ تَمُوتُ لَهُ أُمٌّ نَصْرَانِيَّةٌ أَوْ أَبَوْهُ أَوْ أَخُوهُ أَوْ دُو قَرَابَتِهِ، وَتَرَى أَنَّ يَلِيَّ شَيْئًا مِنْ أَمْرِهِ حَتَّى يُوَارِيَهُ؟ قَالَ: إِنْ كَانَ أَبَا أَوْ أُمًّا أَوْ أَخَا أَوْ قَرَابَةً قَرِيبَةً وَحَضَرَهُ فَلَا بَأْسَ.

6. anbal said: "I asked Abū 'Abd Allah [Imam Aḥmad] about a Muslim whose mother, father, brother, or other close relative dies as a Christian. He replied: 'If it is a father or mother or brother or close relative, then there is no harm if he attends the funeral.'²

٧. إِنَّ عَبْدِ اللَّهِ بْنَ رَبِيعَةَ قَالَ لِعَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: إِنَّ أُمِّي مَاتَتْ، وَقَدْ عَلِمْتُ الَّذِي كَانَتْ عَلَيْهِ مِنَ النَّصْرَانِيَّةِ. قَالَ: أَحْسِنْ وَلَا يَتَّهَمُهَا، وَلَا تَقُمْ عَلَى قَبْرِهَا.

7. 'Abd Allāh b. Rabī'a said to 'Abd Allāh b. 'Umar رَضِيَ اللَّهُ عَنْهُمَا: "My mother has died and, as you know, she was a Christian." 'Abd Allāh b. 'Umar said: "Take care of what she has entrusted to you and shroud her—but do not stand at her grave."³

¹ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 219 §623. •al-Dāraqutnī in *al-Sunan: Kitāb al-janā'iz* [The Book of Funeral Rites], chapter: "On Placing the Right Hand over the Left Hand and Raising the Hands During the Opening *Takbīr*," 2:75 §6. •al-Zayla'ī in *Naṣb al-rāya*, 2:292. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:434.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 219 §624. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:435.

³ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 219 §624. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:436.

٨. عَنْ سَعِيدِ بْنِ جُبَيْرٍ، قَالَ: سَأَلْتُ ابْنَ عَبَّاسٍ رضي الله عنه عَنْ رَجُلٍ مَاتَ أَبُوهُ
نَصْرَانِيًّا. قَالَ: يَشْهَدُهُ وَيُدْفَنُهُ.

8. It is related on the authority of Sa'īd b. Jubayr that he said: "I asked Ibn 'Abbās رضي الله عنه about a man whose father dies as a Christian. He replied: 'He should attend his funeral and bury him.'"¹

II.4 GIVING CONDOLENCES TO NON-MUSLIMS

Islam permits to offer condolence to the dependents of the deceased People of the Book and share their pain and grief. Ibn al-Qayyim serves some arguments as proofs.

١. عَنْ مَنْصُورٍ عَنْ إِبْرَاهِيمَ، قَالَ: إِذَا أَرَدْتَ أَنْ تُعْزِّيَ رَجُلًا مِنْ أَهْلِ
الْكِتَابِ فَقُلْ: أَكْثَرَ اللَّهُ مَالَكَ وَوَلَدَكَ وَأَطَالَ حَيَاتَكَ أَوْ عُمْرَكَ.

1. It is related on the authority of Manṣūr b. Ibrāhīm: "When you want to express your condolences to a person from the People of the Book, say: 'May Allah increase your wealth and offspring and lengthen your life.'"²

٢. قَالَ الْحَسَنُ: إِذَا عَزَّيْتَ الذَّمِّيَّ، فَقُلْ: لَا يُصِيبُكَ إِلَّا خَيْرٌ.

2. Al-Hasan said: "When you offer your condolences to a non-Muslim citizen, say: 'May you be touched by naught save goodness.'"³

¹ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 220 §628. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:437.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 224 §636. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:438-439.

³ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 224 §638. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:439.

11.5 THE SLAUGHTERED ANIMALS OF THE PEOPLE OF THE BOOK

Ibn al-Qayyim related some arguments in this regard:

قَالَ تَعَالَى: ﴿وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ وَطَعَامُكُمْ حِلٌّ لَّهُمْ﴾ [المائدة، ٥:٥].

Allah Most High says:

﴿And the food of those who were given the Scripture is permissible for you, and your food is permissible for them.﴾¹

وَلَمْ يَخْتَلِفِ السَّلَفُ أَنَّ الْمُرَادَ بِذَلِكَ الذَّبَائِحُ.

The early forebears (*salaf*) were in unanimous agreement that this [verse] pertains to the slaughtered animals of the People of the Book.²

Then Ibn al-Qayyim presents different quotes:

١. قَالَ الْبُخَارِيُّ: قَالَ ابْنُ عَبَّاسٍ: طَعَامُهُمْ ذَبَائِحُهُمْ.

1. Al-Bukhārī said: “Ibn ‘Abbās said: ‘Their food here refers to their slaughtered animals.’”³

٢. وَكَذَلِكَ قَالَ ابْنُ مَسْعُودٍ وَمُجَاهِدٌ وَإِبْرَاهِيمُ وَقَتَادَةُ وَالْحَسَنُ وَغَيْرُهُمْ.

2. This was also the position of Ibn Mas‘ūd, Mujāhid, Ibrāhīm, Qatāda, al- āsan and others.⁴

¹ Qur’ān, 5:5.

² •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:502.

³ Narrated by •al-Bukhārī in *al-Ṣaḥīḥ*, *Kitāb al-dhabā’ih wa al-ṣayd* [The Book of Slaughtered Animals and Hunting], chapter: “The Slaughtered Animals and Fat of the People of the Book and the People of War, and Others,” 5:2097. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:282 §18934. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:502.

⁴ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:502.

٣. وَقَالَ أَحْمَدُ بْنُ الْحَسَنِ التِّرْمِذِيُّ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنْ ذَبَائِحِ أَهْلِ الْكِتَابِ؛ فَقَالَ: لَا بَأْسَ بِهَا.

3. Aḥmad b. al-ḥasan al-Tirmidhī said: “I asked Abū ‘Abd Allāh [Imam Aḥmad] about the slaughtered animals of the People of the Book, and he replied: ‘There is no harm in them.’”¹

٤. وَقَالَ حَنْبَلٌ: سَمِعْتُ أَبَا عَبْدِ اللَّهِ يَقُولُ: تُوْكَلُ ذَبِيحَةُ الْيَهُودِيِّ وَالنَّصْرَانِيِّ.

4. Ḥanbal said: “I heard Abū ‘Abd Allāh [Imam Aḥmad] say: ‘The meat slaughtered by a Jew or a Christian may be eaten.’”²

٥. وَقَالَ إِسْحَاقُ بْنُ مَنْصُورٍ: قَالَ أَبُو عَبْدِ اللَّهِ: لَا بَأْسَ أَنْ يَذْبَحَ أَهْلُ الْكِتَابِ لِلْمُسْلِمِينَ غَيْرَ النَّسِيكَةِ.

5. Ishāq b. Manṣūr said: “Abū ‘Abd Allāh [Imam Aḥmad] said: ‘There is no harm in someone from the People of the Book slaughtering an animal for the Muslims, so long as it is not a specific ritual offering [done in the name of ‘Isa ʿ].’”³

٦. وَقَالَ حَنْبَلٌ: سَمِعْتُ أَبَا عَبْدِ اللَّهِ قَالَ: لَا بَأْسَ بِذَبِيحَةِ أَهْلِ الْكِتَابِ إِذَا أَهْلُوا اللَّهَ وَسَمَّوْا عَلَيْهِ، قَالَ تَعَالَى: ﴿وَلَا تَأْكُلُوا مِمَّا لَمْ يَذْكُرْ أَسْمُ اللَّهِ عَلَيْهِ﴾ [الأنعام، ١٢١: ٦]، وَالْمُسْلِمُ فِي قَلْبِهِ اسْمُ اللَّهِ، وَمَا أَهْلٌ لِعَبْرِ اللَّهِ بِهِ مِمَّا ذَبَحُوا الْكَنَائِسِهِمْ وَأَعْيَادِهِمْ يُجْتَنَّبُ ذَلِكَ، وَأَهْلُ الْكِتَابِ

¹ Ibid., 1:503.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 362 §1007. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:503–504.

³ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 362 §1008. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1: 504.

يُسْمُونَ عَلَى ذَبَائِحِهِمْ أَحَبُّ إِلَيَّ.

6. anbal said: "I heard Abū 'Abd Allāh [Imam Aḥmad] say: 'There is no harm in [eating from] the meat slaughtered by the People of the Book if they slaughter it for Allah's sake and in His Name. Allah Most High says: *'And do not eat of that over which Allah's Name has not been pronounced.'*"¹ The Name of Allah is ever in the heart of the Muslims. The meat that they [the Christians] slaughter for other than Allah, such as for their churches and festivals, should be avoided. It is more beloved to me that the People of the Book pronounce Allah's Name as they slaughter their animals."²

٧. وَقَالَ مُهَنَّأُ بْنُ يَحْيَى: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنْ ذَبَائِحِ السَّامِرَةِ. قَالَ: تُوَكَّلْ، هُمْ مِنْ أَهْلِ الْكِتَابِ.

7. Muḥannā b. Yaḥyā said: "I asked Abū 'Abd Allāh [Imam Aḥmad] about the meat of the Samaritans and he said: 'It may be eaten since they are from the People of the Book.'"³

٨. قَالَ عَبْدُ اللَّهِ بْنُ أَحْمَدَ: قَالَ أَبِي: لَا بَأْسَ بِذَبَائِحِ أَهْلِ الْحَرْبِ إِذَا كَانُوا مِنْ أَهْلِ الْكِتَابِ.

8. 'Abd Allāh, the son of Imam Aḥmad, said: "My father said: 'There is no harm in eating the meat of those with whom we are at war, so long as they are from the People of the Book.'"⁴

¹ Qur'ān 6:121.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, pp. 362–363 §1009. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:504–505.

³ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, pp. 364 §1016. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:505.

⁴ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, pp. 365–366 §1018. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:505.

٩. قَالَ ابْنُ الْمُنْذِرِ: أَجْمَعَ عَلَى هَذَا كُلُّ مَنْ يُحْفَظُ عَنْهُ مِنْ أَهْلِ الْعِلْمِ.

9. Ibn al-Mundhir said: "All of the scholars whose positions are recorded agree with this."¹

Presenting the preceding quotes about the slaughtered animals of the People of the Book, Ibn al-Qayyim writes:

وَأَمَّا قَوْلُهُمْ: إِنَّ التَّسْمِيَةَ شَرْطٌ فِي الْحِلِّ، فَلَعَمْرُ اللَّهِ! إِنَّهَا لَشَرْطٌ بِكِتَابِ اللَّهِ وَسُنَّةِ رَسُولِهِ ﷺ، وَأَهْلُ الْكِتَابِ وَغَيْرُهُمْ فِيهَا سَوَاءٌ، فَلَا يُؤْكَلُ مَتْرُوكُ التَّسْمِيَةِ سَوَاءً ذَبَحَهُ مُسْلِمٌ أَوْ كِتَابِيٌّ، لِبُضْعَةِ عَشَرَ دَلِيلًا.

As for their [the scholars'] judgment that the pronouncement of Allah's Name is a condition for the meat to be lawful, then by Allah it is the truth, for it is established as a condition in the Book of Allah and the Sunna of His Messenger—and the People of the Book and others share in this condition, since the meat over which Allah's Name has not been pronounced should not be eaten, whether it was killed by a Muslim or someone from the People of the Book. This is established through over ten legal proofs.²

II.5.1 RULINGS ABOUT MEAT ARE THE SAME FOR THE PEOPLE OF TREATY AND PEOPLE AT WAR

Advancing the argument, Ibn al-Qayyim, loud and clear, states that rulings about meat are the same for the People of Treaty and People at War; that ruling about the People of the Book at war or in truce is the same. He states:

إِذَا ثَبَتَ هَذَا فَلَا فَرْقَ بَيْنَ الْحَرْبِيِّ وَالْمُعَاهِدِ لِدُخُولِهِمْ جَمِيعًا فِي أَهْلِ الْكِتَابِ.

Thus, with respect to the rulings of slaughtered animals,

¹ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:505.

² Ibid., 1:510.

there is no difference between the non-Muslim with whom we have a treaty of peace and the non-Muslim with whom we are at war, as both are subsumed under the term the "People of the Book."¹

11.5.2 ISSUES PERTAINING TO THE ANIMALS' MEAT OF THE PEOPLE OF THE BOOK

Ibn al-Qayyim elaborates the issues pertaining to the meat of the slaughtered animals of the People of the Book. He writes:

فَأَمَّا الْمَسْأَلَةُ الْأُولَى: فَمَنْ أَبَاحَ مَتْرُوكَ التَّسْمِيَةِ إِذَا ذَبَحَهُ الْمُسْلِمُ، اخْتَلَفُوا: هَلْ يُبَاحُ إِذَا ذَبَحَهُ الْكِتَابِيُّ؟ فَقَالَتْ طَائِفَةٌ: يُبَاحُ، لِأَنَّ التَّسْمِيَةَ إِذَا لَمْ تَكُنْ شَرْطًا فِي ذَبِيحَةِ الْمُسْلِمِ لَمْ تَكُنْ شَرْطًا فِي ذَبِيحَةِ الْكِتَابِيِّ. وَقَالَتْ طَائِفَةٌ: لَا يُبَاحُ وَإِنْ أُبِيحَ مِنَ الْمُسْلِمِ، وَفَرَّقُوا بَيْنَهُمَا بِأَنَّ اسْمَ اللَّهِ فِي قَلْبِ الْمُسْلِمِ وَإِنْ تَرَكَ ذِكْرَهُ بِلِسَانِهِ، وَهَذَا مُقْتَضَى الْمَقُولِ عَنِ ابْنِ عَبَّاسٍ رضي الله عنه، وَهُوَ ظَاهِرٌ نَصِّ أَحَدٍ. فَإِنَّ أَحَدًا قَالَ فِي رِوَايَةِ حَنْبَلٍ: لَا بَأْسَ بِذَبِيحَةِ أَهْلِ الْكِتَابِ إِذَا أَهْلُوا بِهَا لِلَّهِ وَسَمَّوْا عَلَيْهَا. قَالَ تَعَالَى: ﴿وَلَا تَأْكُلُوا مِمَّا لَمْ يُذْكَرِ اسْمُ اللَّهِ عَلَيْهِ﴾ [الأنعام، ١٢١/٦]، وَالْمُسْلِمُ فِي قَلْبِهِ اسْمُ اللَّهِ، فَقَدْ خَرَجَ بِالْفَرْقِ كَمَا تَرَى.

THE FOREMOST ISSUE: As for those who allowed [eating from] an animal slaughtered by a Muslim but over which Allah's Name was not pronounced, they disagreed if it is allowed if the same is done by someone from the People of the Book.

One group of scholars maintained that it is allowed since they reasoned, if it is not a condition for eating an animal slaughtered by a Muslim, it is not a condition for eating meat slaughtered by someone from the People of the Book, either.

¹ Ibid., 1:513.

Another group maintained that it is not allowed, even if it is allowed when coming from a Muslim. They distinguished between the two by saying that the Name of Allah is always in the heart of the Muslim, even if he omits it with his tongue [at the time of slaughter]. This view corresponds to what is transmitted on the authority of Ibn ‘Abbās رضي الله عنه, and it is the most apparent view of Aḥmad [b. anbal], for he said in the narration of anbal: “There is no harm in [eating from] the meat slaughtered by the People of the Book if they slaughter it for Allah’s sake and in His Name. Allah Most High says: *‘And do not eat of that over which Allah’s Name has not been pronounced.’*”¹ The Name of Allah is ever in the heart of the Muslim.”² So as you can see, Imam Aḥmad resolved the difference between the two standpoints.³

الْمَسْأَلَةُ الثَّانِيَّةُ: قَالَ الْمَيْمُونِيُّ: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَمَّنْ يُذْبَحُ مِنْ أَهْلِ الْكِتَابِ وَلَمْ يُسَمِّ؟ فَقَالَ: إِنْ كَانَ مِمَّا يُذْبَحُونَ لِكِنَائِسِهِمْ يَدْعُونَ التَّسْمِيَةَ فِيهِ عَلَى عَمْدٍ، إِنَّمَا يُذْبَحُ لِلْمَسِيحِ فَقَدْ كَرِهَهُ ابْنُ عُمَرَ رضي الله عنه، إِلَّا أَنَّ أَبَا الدَّرْدَاءِ رضي الله عنه يَتَأَوَّلُ أَنَّ طَعَامَهُمْ حَلٌّ، وَأَكْثَرُ مَا رَأَيْتُ مِنْهُ الْكَرَاهِيَةَ لِأَكْلِ مَا ذُبِحَ لِكِنَائِسِهِمْ.

THE SECOND ISSUE: Al-Maymūnī said: “I asked Abū ‘Abd Allāh [Imam Aḥmad] about someone from the People of the Book who slaughtered an animal and failed to mention Allah’s Name over it. He replied: ‘If he is of those who slaughter animals for their churches and purposely omits Allah’s Name during the time of slaughter, then in reality he is only slaughtering it in the name of the Messiah [Prophet ‘Isā عليه السلام]. Ibn ‘Umar found this reprehensible; however, Abū al-Dardā’ applied [a general] interpretation and argued that

¹ Qur’ān 6:121.

² Narrated by al-Khallāl in *Aḥkām ahl al-milal*, p. 362–363 §1009.

³ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:514.

their food is permissible. The most I have seen is that he found it detestable to eat of the meat that was slaughtered for their church services.”¹

قَالَ الْمَيْمُونِيُّ أَيْضًا: سَأَلْتُ أَبَا عَبْدِ اللَّهِ عَنْ ذَبِيحَةِ الْمَرْأَةِ مِنْ أَهْلِ الْكِتَابِ وَلَمْ تُسَمَّ، قَالَ: إِنْ كَانَتْ نَاسِيَةً فَلَا بَأْسَ، وَإِنْ كَانَ مِمَّا يَذْبَحُونَ لِكَنَائِسِهِمْ قَدْ يَدْعُونَ التَّسْمِيَةَ عَلَى عَمْدٍ.

Al-Maymūnī also said: “I asked Abū ‘Abd Allāh [Imam Aḥmad] about the meat slaughtered by a woman from the People of the Book, but who failed to mention Allah’s Name over it. He replied: ‘If she forgot to mention it then there is no harm, but if she is of those who slaughter for their church services, then there is a chance that she purposely omitted it.’”²

قَالَ فِي رِوَايَةِ ابْنِهِ عَبْدِ اللَّهِ: مَا ذُبِحَ لِلزُّهْرَةِ فَلَا يُعْجِبُنِي أَكْلُهُ، قِيلَ لَهُ: أَحْرَامٌ أَكْلُهُ؟ قَالَ: لَا أَقُولُ حَرَامٌ، وَلَكِنْ لَا يُعْجِبُنِي.

Imam Aḥmad said in a narration reported by his son, ‘Abd Allāh: “I disapprove of eating from the meat that is slaughtered for al-Zuhra.” He was asked: “Is it unlawful (*ḥarām*)?” He replied: “I am not saying that it is unlawful, however I disapprove of it.”³

قَالَ فِي رِوَايَةِ حَنْبَلٍ: يُجْتَنَّبُ مَا ذُبِحَ لِكَنَائِسِهِمْ وَأَعْبَادِهِمْ.

Imam Aḥmad said in a narration reported by Ḥanbal: “The meat that is slaughtered for the sake of their church services

¹ Narrated by •al-Khallāl in *Aḥkām ahl al-mīlāl*, p. 367 §1028. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:515.

² Narrated by •al-Khallāl in *Aḥkām ahl al-mīlāl*, p. 367 §1029. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:515–516.

³ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:516

and festivals should be avoided.”¹

وَقَالَ أَبُو الْبَرَكَاتِ فِي 'مُحَرَّرِهِ': وَإِنْ ذَكَرُوا عَلَيْهِ اسْمَ غَيْرِ اللَّهِ فِيهِ رِوَايَتَانِ
مَنْصُوصَتَانِ، أَصَحُّهُمَا عِنْدِي تَحْرِيمُهُ.

Abū al-Barakāt said in *al-Muḥarrar*: “And if they mention other than Allah’s Name [over the animal at the time of slaughter], then there are two transmitted opinions concerning its ruling. The soundest of them in my view is that it is forbidden.”²

اِخْتَلَفَ النَّاسُ فِيمَا ذَبَحَ النَّصَارَى لِأَعْيَادِهِمْ أَوْ ذَبَحُوا بِاسْمِ الْمَسِيحِ،
فَكَرِهَهُ قَوْمٌ لِأَنَّهُمْ أَخْلَصُوا الْكُفْرَ عِنْدَ تِلْكَ الذَّبِيحَةِ، فَصَارَتْ مِمَّا أَهَلُّ
بِهِ لَغَيْرِ اللَّهِ، وَرَخَّصَ فِي ذَلِكَ قَوْمٌ عَلَى الْأَصْلِ الَّذِي أُبِيحَ مِنْ ذَبَائِحِهِمْ.

People differ over [the ruling on] meat slaughtered by Christians for their religious festivals, or which they slaughter in the name of the Messiah. Some consider it reprehensible (*makrūh*) because they [the Christians] bring forth unmitigated disbelief (*kufr*) at the moment of slaughter, with the animal therefore becoming something slaughtered for other than Allah. Others, however, gave a dispensation and allowed eating this kind of meat on the verdict that allowed to eat their permissible slaughtered animals.³

فَأَمَّا مَنْ بَلَغَنَا عَنْهُ الرُّخْصَةُ فِي ذَلِكَ. فَحَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ، ثَنَا عَبْدُ
الرَّحْمَنِ بْنُ مَهْدِيٍّ، ثَنَا مُعَاوِيَةُ بْنُ صَالِحٍ عَنْ أَبِي الزَّاهِرِيَّةِ عَنْ عُمَيْرِ بْنِ

¹ Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, pp. 363–364 §1009. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:516.

² •Ibn Taymiyya, *al-Muḥarrar fī al-fiqh ‘alā madhab al-Imām Aḥmad b. anbal*, 2:192. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:516.

³ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:517.

الْأَسْوَدِ السُّكُونِيِّ. قَالَ: أَتَيْتُ أَهْلِي فَإِذَا كَيْفُ شَاةٍ مَطْبُوخَةٍ، قُلْتُ: مِنْ
 أَيْنَ هَذَا؟ قَالُوا: جِيرَانُنَا مِنَ النَّصَارَى ذَبَحُوا كَبْشًا لِكَنِيسَةِ جِرْجِسَ،
 قَلَدُوهُ عِمَامَةً وَتَلَقَّوْا دَمَهُ فِي طَسْتٍ، ثُمَّ طَبَخُوا وَأَهْدَوْا إِلَيْنَا وَإِلَى جِيرَانِنَا.
 قَالَ: قُلْتُ: ارْفَعُوا هَذَا. ثُمَّ هَبَطْتُ إِلَى أَبِي الدَّرْدَاءِ فَسَأَلْتُهُ، وَذَكَرْتُ ذَلِكَ
 لَهُ، فَقَالَ: االلَّهُمَّ، غُفْرًا، هُمْ أَهْلُ الْكِتَابِ؛ طَعَامُهُمْ لَنَا حِلٌّ وَطَعَامُنَا لَهُمْ
 حِلٌّ.

As for those scholars from whom it has reached us that they permitted it, we have the following: ‘Alī b. ‘Abd Allāh narrated to us via ‘Abd al-Raḥmān b. Maḥdī › Mu‘āwiya b. Ṣāliḥ › Abū al-Zāhiriyya › on the authority of ‘Umayr b. al-Aswad al-Sukūnī who said: “I came home to my family and found that a shoulder of lamb had been cooked. I asked: ‘Where is this from?’ and one of my family members said: ‘Our Christian neighbour slaughtered a sheep for Church of [Saint] George. They wrapped it up and drained its blood into a bowl and then cooked it and gave it to us and our other neighbours as a gift.’ I said: ‘Hold on,’ and went to Abū al-Dardā’ and asked him about it. He said: ‘O Allah, forgive us! They are the People of the Book; their food is lawful for us, and our food is lawful for them!’”¹

Imam al-Bukhārī writes in *al-Tārīkh al-kabīr*:

عَنْ جَرِيرِ بْنِ عُتْبَةَ - أَوْ عُتْبَةَ بْنِ جَرِيرٍ - قَالَ: سَأَلْتُ عَبْدَةَ بْنَ الصَّامِتِ
 عَنْ ذَبَائِحِ النَّصَارَى لِمَوْتَاهُمْ. قَالَ: لَا بَأْسَ بِهِ.

It is reported on the authority of Jarīr b. ‘Utba—or ‘Utba b. Jarīr—that he said: “I asked ‘Ubāda b. al-Ṣāmit about the meat of the People of the Book that they slaughter when one

¹ • Ibn ‘Abd al-Barr, *al-Istidhkāṛ*, 5:258. • Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:517. The chain of this narration is rigorously authentic and its narrators are all reliable.

of them dies. He said: 'There is no harm in it.'¹

عَنِ الْأَوْزَاعِيِّ عَنْ مَكْحُولٍ، فِيمَا دَبَحَتِ النَّصَارَى لِأَعْيَادِ كَذَا. قَالَ: كُلُّهُ،
قَدْ عَلِمَ اللَّهُ مَا يَقُولُونَ وَأَحَلَّ دَبَائِحَهُمْ.

Al-Awzā'ī related on the authority of Makhūl who said about the meat slaughtered by Christians for their religious celebrations: "Eat of it; Allah knows what they say [when they slaughter the animal] and [yet] he permitted their meat."²

II.5.3 AN IMPORTANT POINT

وَالِإِلَى هَذَا ذَهَبَ الْفُقَهَاءُ الشَّامِيُّونَ مَكْحُولٌ وَالْقَاسِمُ بْنُ مُخَيْمِرَةَ وَعَبْدُ
الرَّحْمَنِ بْنُ يَزِيدَ بْنِ جَابِرٍ وَسَعِيدُ بْنُ عَبْدِ الْعَزِيزِ وَالْأَوْزَاعِيُّ؛ وَقَالُوا:
سَوَاءٌ سَمِيَ النَّصْرَانِيُّ الْمَسِيحَ عَلَى دَبِيحَتِهِ أَوْ سَمِيَ جُرْجَسَ أَوْ دَبَحَ
لِعَبْدِهِ أَوْ لِكَنِيسَتِهِ كُلُّ ذَلِكَ حَلَالٌ لِأَنَّهُ كِتَابِيٌّ، دَبَحَ بِدِينِهِ وَقَدْ أَحَلَّ اللَّهُ
دَبَائِحَهُمْ فِي كِتَابِهِ.

The aforementioned view is shared by the Levantine jurists: Makhūl, al-Qāsim b. Mukhaymira, 'Abd al-Raḥmān b. Yazīd b. Jābir, Sa'īd b. 'Abd al-'Azīz and al-Awzā'ī. They opine that such meat is lawful even if a Christian slaughters it in the name of the Messiah, or in the name of [Saint] George, or slaughters it for their festival or church—all of it, they maintain, is lawful, because the one who slaughters it is from the People of the Book who killed it according to the dictates of his own religion, and Allah, in His Book [the Qur'ān], has

¹ Narrated by •al-Bukhārī in *al-Tārīkh al-kabīr*, 2:214 §2236. •Ibn 'Abd al-Barr in *al-Istidhkār*, 5:258. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:519.

² •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:517. •al-Shātibī, *al-Muwāfaqāt*, 1:173–174. •al-Qurāfī in *al-Furūq*, 1:304. The narrators in this chain of transmission are all reliable.

declared their meat lawful for consumption.¹

١. قَالَ الْإِمَامُ أَبُو بَكْرٍ الْكَاسَانِيُّ الْحَنْفِيُّ فِي 'بَدَائِعِ الصَّنَائِعِ': وَقَدْ رُوِيَ عَنْ سَيِّدِنَا عَلِيٍّ عليه السلام أَنَّهُ سُئِلَ عَنْ ذَبَائِحِ أَهْلِ الْكِتَابِ، وَهُمْ يَقُولُونَ مَا يَقُولُونَ. فَقَالَ عليه السلام: قَدْ أَحَلَّ اللَّهُ ذَبَائِحَهُمْ وَهُوَ يَعْلَمُ بِمَا يَقُولُونَ. فَأَمَّا إِذَا سُمِعَ مِنْهُ أَنَّهُ سَمَّى الْمَسِيحَ عليه السلام وَحْدَهُ، أَوْ سَمَّى اللَّهَ سبحانه وَسَمَّى الْمَسِيحَ، لَا تُؤْكَلُ ذَبِيحَتُهُ.

كَذَا رُوِيَ عَنْ سَيِّدِنَا عَلِيٍّ عليه السلام وَلَمْ يُرَوْ عَنْ غَيْرِهِ خِلَافُهُ، فَيَكُونُ إِجْمَاعًا.

1. Imam Abū Bakr al-Kāsānī al-anafī said in *Badā'i' al-ṣanā'i'*: "It is reported that our master 'Alī عليه السلام was asked about the slaughtered meat of the People of the Book who say what they say [slaughtering the animals in the name of 'Isā عليه السلام]. He replied: 'Allah permitted their meat knowing full well what they say [at the time of slaughter].'"

On the other hand, if a Muslim hears a Christian utter the Messiah's name alone [at the time of the slaughter], or hears him mention Allah's Name and the Messiah's name together, his meat should not be eaten. This is what has been reported by our master 'Alī, and nothing contrary to it has been reported, so it is a form of consensus on the issue.²

٢. عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ بْنِ جَابِرٍ يَقُولُ: سَمِعْتُ الْقَاسِمَ بْنَ مَخْيِمَةَ، قَالَ: كُلُّهَا، وَلَوْ سَمِعْتُهُ يَقُولُ: عَلَى اسْمِ جَرَجِسَ لَاكُلْتُهَا.

2. It is reported that 'Abd al-Raḥmān b. Yazīd b. Jābir said: "I heard al-Qāsim b. Mukhaymira say: 'Eat of it [the meat of the People of the Book]; but if you hear him [the Christian] say "In the name of [Saint] George", do not eat from it.'"³

¹ •Ibn 'Abd al-Barr in *al-Istidhkār*, 5:258.

² •Al-Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 6:230.

³ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:520. •Ibn 'Abd al-Barr, *al-*

٣. عَنْ عَبْدِ الرَّحْمَنِ بْنِ جُبَيْرِ بْنِ نُفَيْرٍ عَنْ أَبِيهِ، قَالَ: كُلْهَا.

3. 'Abd al-Raḥmān b. Jubayr b. Nufayr, on the authority of his father [Jubayr b. Nufayr], said: "Eat of it."¹

٤. وَبِهِ إِلَى أَبِي بَكْرٍ عَنْ حَبِيبِ بْنِ عُبَيْدٍ: أَنَّ الْعُرْبَاضَ بْنَ سَارِيَةَ قَالَ: كُلُّهُ.

4. It is also related from Abū Bakr on the authority of abīb b. 'Ubayd, who said that al-'Irbāḍ b. Sāriya said: "Eat of it."²

٥. عَنْ عَبْدِ الْمَلِكِ عَنْ عَطَاءٍ فِي النَّصْرَانِيِّ يَذْبَحُ وَيَذْكُرُ اسْمَ الْمَسِيحِ، قَالَ: كُلُّهُ، قَدْ أَحَلَّ اللَّهُ ذَبَائِحَهُمْ، وَقَدْ عَلِمَ مَا يَقُولُونَ.

5. Regarding a Christian who slaughters an animal in the name of the Messiah, it is reported on the authority of 'Abd al-Malik, on the authority of 'Aṭā' who said: "Eat of it; Allah permitted their meat knowing full well what they say."³

٦. ذَكَرَ عَنْ عَطَاءٍ أَيْضًا أَنَّهُ سُئِلَ عَنِ النَّصْرَانِيِّ يَذْبَحُ، وَيَقُولُ: بِاسْمِ الْمَسِيحِ. فَقَالَ: كُلْ.

6. It is also recorded that 'Aṭā' was asked about the meat of a Christian who slaughtered in the name of the Messiah. He said: "Eat of it."

٧. قَالَ إِبْرَاهِيمُ فِي الذَّمِّيِّ يَذْبَحُ وَيَقُولُ: بِاسْمِ الْمَسِيحِ. فَقَالَ: إِذَا تَوَارَى عَنْكَ فَكُلْ.

Istidhkār, 5:258. The chain of this narration is rigorously authentic and its narrators are all reliable.

¹ • Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:521.

² Ibid.

³ Ibid. The narrators of this chain are all reliable.

7. On the same question, Ibrāhīm [al-Nakhaʿī] said: "If he conceals it from you [uttering it inaudibly] then eat of it."

٨. وَقَالَ عَبْدُ اللَّهِ بْنُ وَهَبٍ: حَدَّثَنِي حَيَوَةُ بْنُ شُرَيْحٍ عَنْ عُقْبَةَ بْنِ مُسْلِمٍ التَّجِيبِيِّ وَقَيْسِ بْنِ رَافِعٍ الْأَشْجَعِيِّ أَنَّهُمَا قَالَا: حَلَّ لَنَا مَا يُذْبَحُ لِعِيدِ الْكِنَانِسِ، وَمَا أُهْدِيَ مِنْ خُبْزٍ أَوْ لَحْمٍ، وَإِنَّمَا هُوَ طَعَامُ أَهْلِ الْكِتَابِ.

8. ʿAbd Allāh b. Wahb said: "aywat b. Shurayḥ narrated to me that ʿUqba b. Muslim al-Tujībī and Qays b. Rāfiʿ al-Ashjaʿī both said: 'Permitted for us [to eat] are the meat and bread prepared for their Church festivals and given as gifts, for they are the food of the People of the Book.'"¹

٩. وَقَالَ أَيُّوبُ بْنُ نَجِيحٍ: سَأَلْتُ الشَّعْبِيَّ عَنْ ذَبَائِحِ نَصَارَى الْعَرَبِ، فَقُلْتُ: مِنْهُمْ مَنْ يَذْكُرُ اللَّهَ، وَمِنْهُمْ مَنْ يَذْكُرُ الْمَسِيحَ، فَقَالَ: كُلُّ وَأَطْعَمْنِي.

9. Ayyūb b. Najīḥ said: "I asked al-Shaʿbī about the meat slaughtered by the Christian Arabs and said: 'Some of them utter Allah's Name [at the time of slaughter] while others utter the Messiah's name.' He replied: 'Eat of it and feed me some!'"²

١٠. قَالَ الْقَاضِي إِسْمَاعِيلُ: وَأَمَّا مَنْ بَلَّغَنَا عَنْهُ أَنَّهُ كَرِهَ ذَلِكَ، فَحَدَّثَنَا مُحَمَّدُ بْنُ أَبِي بَكْرٍ، ثَنَا ابْنُ مَهْدِيٍّ عَنْ قَيْسٍ عَنْ عَطَاءِ بْنِ السَّائِبِ عَنْ رَازَانَ عَنْ عَلِيٍّ قَالَ: إِذَا سَمِعْتَ النَّصْرَانِيَّ يَقُولُ: بِاسْمِ الْمَسِيحِ فَلَا تَأْكُلْ وَإِذَا لَمْ تَسْمَعْ فَكُلْ، فَقَدْ أَحَلَّتْ لَنَا ذَبَائِحُهُمْ.

10. Al-Qāḍī Ismāʿīl said: "As for those scholars from whom

¹ Ibid.

² Ibid., 1:523.

it has reached us that they disliked eating of their meat, we have the following: Muḥammad b. Abī Bakr narrated to us via Ibn Mahdī › Qays › ‘Aṭā’ b. al-Sā’ib › Zādhān on the authority of ‘Alī, who said: ‘If you hear a Christian say [at the time of slaughter]: “In the name of the Messiah,” then do not eat [his meat], and if you do not hear him say that then eat of it, for their meat has been permitted for us.’”¹

١١. وَقَالَ حَمَّادٌ: كُلْ مَا لَمْ تَسْمَعْهُمْ أَهْلُوا بِهِ لِغَيْرِ اللَّهِ.

11. ammad said: “Eat [their meat] so long as you do not hear them kill it in the name of other than Allah.”²

١٢. وَكَرِهَهُ مُجَاهِدٌ وَطَاوُسٌ، وَكَرِهَهُ مَيْمُونُ بْنُ مِهْرَانَ. وَقَالَ الْقَاضِي إِسْمَاعِيلُ: وَكَانَ مَالِكٌ يَكْرَهُ ذَلِكَ مِنْ غَيْرِ أَنْ يُوجِبَ فِيهِ تَحْرِيمًا.

12. This was considered reprehensible (*makrūh*) by Mujāhid, Tāwūs, and Maymūn b. Mihrān. Al-Qāḍī Ismā‘īl said: “Mālik would consider it detestable, but without declaring it unlawful.”³

١٣. قَالَ الْمُسِيحُونَ: هَذَا مِنْ طَعَامِهِمْ، وَقَدْ أَبَاحَ اللَّهُ لَنَا طَعَامَهُمْ مِنْ غَيْرِ تَخْصِيسٍ، وَقَدْ عَلِمَ سُبْحَانَهُ أَنَّهُمْ يُسَمُّونَ غَيْرَ اسْمِهِ.

13. As for those who permitted it, they argued that such meat is “from their food,” and that Allah has permitted us to eat their food without qualification (*takhṣīṣ*), even though He knew that they would slaughter their animals in other than His Name.⁴

¹ •Ibn ‘Abd al-Barr, *al-Istidhkār*, 5:259. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:523–524.

² •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:525.

³ •Ibn ‘Abd al-Barr, *al-Istidhkār*, 5:259. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:526.

⁴ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:526.

١٤. قَالَ الْمُحَرَّمُونَ: قَدْ صَرَحَ الْقُرْآنُ بِتَحْرِيمِ مَا أَهْلٌ بِهِ لِغَيْرِ اللَّهِ، وَهَذَا عَامٌّ فِي ذَبِيحَةِ الْوَتْنِيِّ وَالْكِتَابِيِّ إِذَا أَهْلٌ بِهَا لِغَيْرِ اللَّهِ، وَإِبَاحَهُ ذَبَائِحِهِمْ - وَإِنْ كَانَتْ مُطْلَقَةً - لَكِنَّهَا مُقَيَّدَةٌ بِمَا لَمْ يَهْلُوا بِهِ لِغَيْرِهِ، فَلَا يَجُوزُ تَعْطِيلُ الْمُقَيَّدِ وَالْغَاوَةِ بَلْ يُحْمَلُ الْمُطْلَقُ عَلَى الْمُقَيَّدِ.

14. As for those who declared it unlawful, they argued that the Qur'an expressly forbids eating of that which is slaughtered in other than Allah's Name. This, they maintain, is generally applicable to the idolater or the Christian or the Jew who slaughters an animal in other than Allah's Name. Though it is true that the allowance to eat their meat is open-ended, it is limited by the condition that it should not be slaughtered in other than Allah's Name. Therefore, it is not permitted to cancel out and void the restricted [and follow the unqualified text]; rather, the open-ended must be interpreted in the light of the restricted.¹

11.6. THE PERMISSIBILITY OF MARRYING A WOMAN FROM THE PEOPLE OF THE BOOK

Let us evaluate Ibn al-Qayyim's standpoint about the permissibility of marrying a woman from the People of the Book. He opines:

وَيَجُوزُ نِكَاحُ الْكِتَابِيَّةِ بِنَصِّ الْقُرْآنِ، قَالَ تَعَالَى: ﴿وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أَوْتُوا الْكِتَابَ مِنْ قَبْلِكُمْ﴾ [المائدة، ٥ / ٥]، وَالْمُحْصَنَاتُ هُنَا هُنَّ الْعَقَائِفُ، وَأَمَّا الْمُحْصَنَاتُ الْمُحَرَّمَاتُ فِي 'سُورَةِ النَّسَاءِ' فَهِنَّ الْمَرْوَجَاتُ.

وَقِيلَ: الْمُحْصَنَاتُ اللَّاتِي أُبْحِنَ هُنَّ الْحَرَائِرُ، وَلِهَذَا لَمْ تَحِلَّ إِمَاءُ أَهْلِ الْكِتَابِ، وَالصَّحِيحُ الْأَوَّلُ لِيُجَوِّهَ:

¹ Ibid.

أَحَدُهَا: أَنَّ الْحُرِّيَّةَ لَيْسَتْ شَرْطًا فِي نِكَاحِ الْمُسْلِمَةِ.

الثَّانِي: أَنَّهُ ذَكَرَ الْإِحْصَانَ فِي جَانِبِ الرَّجُلِ كَمَا ذَكَرَهُ فِي جَانِبِ الْمَرْأَةِ، فَقَالَ: ﴿إِذَا عَاتَيْتُمُوهُنَّ أَجُورَهُنَّ مُحْصِنِينَ﴾ [المائدة، ٥/٥]، وَهَذَا إِحْصَانٌ عِفَّةً بِلَا شَكٍّ، فَكَذَلِكَ الْإِحْصَانُ الْمَذْكُورُ فِي جَانِبِ الْمَرْأَةِ.

الثَّلَاثُ: أَنَّهُ سُبْحَانَهُ ذَكَرَ الطَّيِّبَاتِ مِنَ الْمُطَاعِمِ، وَالطَّيِّبَاتِ مِنَ الْمَنَاقِحِ، فَقَالَ تَعَالَى: ﴿الْيَوْمَ أُحِلَّ لَكُمُ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ وَطَعَامُكُمْ حِلٌّ لَّهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِن قَبْلِكُمْ﴾ [المائدة، ٥/٥].

By the explicit words of the Qur'ān, it is permissible to marry a woman from the People of the Book. Allah Most High says: *«And those chaste women from the believers and from those who were given the Scripture before you [are permitted for you to wed in marriage].»* [Q.5:5.] The word *«chaste»* here (*al-muḥṣanāt*) refers to those women who are unblemished. As for the *muḥṣanāt* mentioned in *sūra al-Nisā'* to whom marriage is forbidden, it refers to those who are already married.

It is also said that the *muḥṣanāt* are those free women to whom marriage is permitted, and that for this reason it is not allowed to marry the handmaidens among the People of the Book—but the soundest position is the former for a number of reasons.

Firstly, freedom is not a prerequisite to marry a Muslim woman.

Secondly, Allah mentions chastity (*iḥṣān*) with respect to both women and men, as He says: *«So when you give to them their reward [their dowry] in a chaste manner. ...»* [Q.5:5.] This is without doubt the chastity of temperance, and is coupled with the chastity that describes the woman.

Thirdly, Allah—Glorified and Exalted is He!—mentions

the fine and wholesome things of foods and the fine and wholesome of those who are taken in marriage, as He says: ﴿Today the fine and wholesome things are permitted to you, and the food of those who received the Scripture is permitted to you, and those chaste women from the believers and from those who were given the Scripture before you [are permitted for you to wed in marriage].﴾ [Q.5:5].¹

وَالْمَقْصُودُ أَنَّ اللَّهَ سُبْحَانَهُ أَبَاحَ لَنَا الْمُحْصَنَاتِ مِنْ أَهْلِ الْكِتَابِ، وَفَعَلَ أَصْحَابُ نَبِيِّنَا ﷺ فَتَزَوَّجَ عُثْمَانُ نَصْرَانِيَّةً، وَتَزَوَّجَ طَلْحَةُ بْنُ عُبَيْدٍ اللَّهُ نَصْرَانِيَّةً، وَتَزَوَّجَ حُذَيْفَةُ يَهُودِيَّةً.

قَالَ عَبْدُ اللَّهِ بْنُ أَحْمَدَ: سَأَلْتُ أَبِي عَنِ الْمُسْلِمِ يَتَزَوَّجُ النَّصْرَانِيَّةَ، أَوْ الْيَهُودِيَّةَ؟ فَقَالَ: مَا أَحَبُّ أَنْ يَفْعَلَ ذَلِكَ، فَإِنْ فَعَلَ فَقَدْ فَعَلَ ذَلِكَ بَعْضُ أَصْحَابِ النَّبِيِّ ﷺ.

What this means is that Allah—Glorified and Exalted is He!—has permitted for us to marry the chaste women from the People of the Book. This, furthermore, was the practice of the Prophet's Companions ﷺ: 'Uthmān married a Christian woman; Ṭalḥa married a Christian woman; and 'udhayfa married a Jewish woman. 'Abd Allah the son of Imam Aḥmad said: "I asked my father about a Muslim who marries a Christian or Jewish woman. He replied: 'I dislike that he does that; however, if he does it then [it suffices that] some of the Prophet's Companions ﷺ did it, too.'"²

وَقَدْ تَأَوَّلَتِ الشَّيْعَةُ الْآيَةَ عَلَى غَيْرِ تَأْوِيلِهَا، فَقَالُوا: الْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ مَنْ كَانَتْ مُسْلِمَةً فِي الْأَصْلِ، ﴿وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا

¹ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:794.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, p. 159 §448. •Ibn al-Qayyim in *Aḥkām ahl al-dhimma*, 1:795.

الْكِتَابِ مِنْ قَبْلِكُمْ» [المائدة، ٥ / ٥] مَنْ كَانَتْ كِتَابِيَّةً، ثُمَّ أَسْلَمَتْ.
 قَالُوا: وَحَمَلْنَا عَلَى هَذَا التَّأْوِيلِ قَوْلُهُ تَعَالَى: ﴿وَلَا تَنْكِحُوا الْمُشْرِكَاتِ
 حَتَّى يُؤْمِنَ﴾ [البقرة، ٢ / ٢٢١]، وَأَيُّ شِرْكٍ أَعْظَمُ مِنْ قَوْلِهَا: «اللَّهُ تَالِثُ
 ثَلَاثَةٍ؟ وَقَوْلُهُ تَعَالَى: ﴿وَلَا تُمَسِّكُوا بِعَصَمِ الْكُوفِرِ﴾ [المتحنة،
 ١٠ / ٦٠]، وَأَجَابَ الْجُمْهُورُ بِجَوَابَيْنِ:

أَحَدُهُمَا: أَنَّ الْمُرَادَ بِالْمُشْرِكَاتِ الْوَثَنِيَّاتِ.

قَالُوا: وَأَهْلُ الْكِتَابِ لَا يَدْخُلُونَ فِي لَفْظِ (الْمُشْرِكِينَ) فِي كِتَابِ اللَّهِ
 تَعَالَى. قَالَ تَعَالَى: ﴿لَمْ يَكُنِ الَّذِينَ كَفَرُوا مِنْ أَهْلِ الْكِتَابِ وَالْمُشْرِكِينَ
 مُنْفَكِّينَ﴾ [البينة، ٩٨ / ١]، وَقَالَ تَعَالَى: ﴿إِنَّ الَّذِينَ ءَامَنُوا وَالَّذِينَ هَادُوا
 وَالصَّٰبِغِينَ وَالنَّصْرَىٰ وَالْمَجُوسَ وَالَّذِينَ أَشْرَكُوا﴾ [الحج، ٢٢ / ١٧].

وَكَذَلِكَ الْكُوفَرُ الْمَنْهِيُّ عَنِ التَّمَسُّكِ بِعَصَمَتِهِنَّ إِنَّمَا هُنَّ الْمُشْرِكَاتُ،
 فَإِنَّ الْآيَةَ نَزَلَتْ فِي قِصَّةِ الْحُدَيْبِيَّةِ، وَلَمْ يَكُنْ لِلْمُسْلِمِينَ زَوَاجَاتٌ مِنْ
 أَهْلِ الْكِتَابِ إِذْ ذَاكَ، وَغَايَةُ مَا فِي ذَاكَ التَّخْصِصُ، وَلَا تَحْدُورُ فِيهِ إِذَا دَلَّ
 عَلَيْهِ دَلِيلٌ.

الْجَوَابُ الثَّانِي: جَوَابُ الْإِمَامِ أَحْمَدَ، قَالَ فِي رِوَايَةِ ابْنِهِ صَالِحٍ: قَالَ
 اللَّهُ تَعَالَى: ﴿وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَ﴾ [البقرة، ٢ / ٢٢١]،
 وَقَالَ فِي سُورَةِ الْمَائِدَةِ، وَهِيَ آخِرُ مَا أُنْزِلَ مِنَ الْقُرْآنِ: ﴿وَالْمُحْصَنَاتُ
 مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ﴾ [المائدة، ٥ / ٥].

The Shiites misinterpreted this Qur'anic verse and said that the chaste women among the believers are those who were born into Islam, and that the chaste women *from those who*

were given the Scripture before you¹ are those who were Christians or Jews that subsequently embraced Islam. They claim: "Our basis for this interpretation is the statement of Allah Most High '*And do not marry idolatresses until they believe.*'"² What idolatry is more heinous than their claim that Allah is 'the Third of Three' [the Trinitarian doctrine]? Allah also says: '*And do not maintain marriage bonds with disbelieving women.*'"³

The scholarly majority (*al-jamhūr*) have provided two answers to this argument:

1. The intended meaning of "idolatresses" in the verse are literally those who worship idols. Thus, they assert that the People of the Book are not included in the term "idolaters" in the Book of Allah Most High. Allah Most High says: "*Those who disbelieved among the People of the Book and the idolaters were not to part ways [from disbelief] until there came to them clear evidence.*"⁴ Allah Most High also said: "*Indeed, those who believe and those who are Jews, Sabians, Christians, and Magians, and those who associated partners [with Allah]. . .*"⁵

Likewise with regard to the "disbelieving women" with whom it is forbidden to have ties of marriage: they are polytheists only, because the verse was revealed during the events surrounding the armistice of ʿUdaybiya, and at that time the Muslims did not have wives from the People of the Book. At any rate, the most that can be said is that this verse is qualified, and thus there is no harm in [marrying a woman from the People of the Book] since there are revealed proofs in support of it.⁶

2. Imam Aḥmad said, in the narration of his son Ṣāliḥ:

¹ Qurʾān 5:5.

² Ibid 2:221.

³ Ibid., 60:10.

⁴ Ibid., 98:1.

⁵ Ibid., 22:17.

⁶ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:797

"Allah Most High says: '*And do not marry idolatresses until they believe.*'"¹ He also says in *sūra al-Mā'ida*, which contains the final verses revealed in the Qur'ān: '*And those chaste women from the believers and from those who were given the Scripture before you [are permitted for you to wed in marriage].*'"²

This elaborate account of Ibn al-Qayyim's stance on non-Muslims' entrance in the Sacred Mosque, attending their funerals and the issues of the meat of their slaughtered animals has aimed to promote awareness of those contemporary people who relish extremist views about non-Muslims despite their more or less identical views though. Their beliefs and ideas are not far from what Ibn Taymiyya or Ibn al-Qayyim hold. Their extremist stance not only fatally damage the teachings of interfaith harmony but also foment social and legal woes for the expatriate Muslims of European countries. It is imperative, therefore, to make our ever-changing thoughts and beliefs of the modern world compatible to the teachings of the Qur'ān and Sunna and the pious predecessors.

¹ Qur'ān 2:221.

² Narrated by •al-Khallāl in *Aḥkām ahl al-milal*, pp. 164-165 §467. •Ibn al-Qayyim in *Aḥkām ahl al-Dhimma*, 1:797.

Part II



الْبَابُ الثَّانِي عَشَرَ

أَقْسَامُ الدِّيَارِ فِي الْإِسْلَامِ

CHAPTER TWELVE

CATEGORIES OF THE ABODES

ISLAM INTENDS TO BRING ABOUT A DYNAMIC, COHESIVE AND PEACEFUL society. Jihad is a comprehensive word loaded with multiple connotations. It encompasses individual life as well as persistent struggle to reform national and international affairs. A voluminous book by the present author on jihad is in process and will soon see daylight, with a peculiar feature of unveiling several aspects to this subject first time. Meanwhile, *al-Jihād al-Akbar*—Arabic, Urdu and *The Supreme Jihad*—English have already been published.

The extremist elements, militants and terrorist forces and groups have done very serious damage to the Islamic concept of jihad. Naming terrorism, massacres and bloodshed as jihad, they have brought defame to Islam and distorted its teachings and identity. The subject of this treatise being relations of Muslims and non-Muslims, the dissertation on categories of abodes has been included in this work.

According to the Islamic rules, the inhabitants of the countries of the world are divided into different abodes premised on their religions and state of affairs such as the Abode of Islam (*Dār al-Islām*), the Abode of Reconciliation (*Dār al-Ṣulḥ*), the Abode of Treaty (*Dār al-‘Ahd*), The Abode of Peace (*Dār al-Amn*) and the Abode of War (*Dār al- arb*). While in modern times, we find full display of extremism and violence due to wrong interpretation of religion, the division of countries into various abodes too is accomplished the way they like. Different gangs and groups kick off terrorism in the name of jīhad wherever they feel like due to their peculiar misanthropist idiosyncrasies and heretic beliefs. That leads to civil strife, mayhem, massacres and carnage. If asked about legal basis of the homicide and genocide they perpetrate they say: “this is ‘the abode of war’ so we are justified to slay the hostile people whether Muslims or non-Muslims.” It is against this perspective that the legal truths have been penned on the following pages to analyse and explain the division of abodes these people maliciously make to cause deviation and bring defame to the

Islamic beliefs.

12.1 THE ABODE OF ISLAM (DĀR AL-ISLĀM)

Imams and jurists have defined 'the Abode of Islam' in several ways. Here is a brief survey of these definitions.

1. Abū Ya'la al- anbalī (210-307 AH), in his treatise *al-Mu'tamad fi uṣūl al-Dīn* (p. 276), has premised the definition of the Abode of Islam on the issuance and supremacy of Islamic Law vis-à-vis non-Islamic rules instead of predicating it on the enforcement of Islamic Law in isolation. He has pronounced:

وَكُلُّ دَارٍ كَانَتْ الْغَلْبَةُ فِيهَا لِأَحْكَامِ الْإِسْلَامِ دُونَ أَحْكَامِ الْكُفْرِ فَهِيَ دَارُ
إِسْلَامٍ.

"Every country, where, in comparison to non-Islamic Law, Islamic Law is held supreme, falls into the category of Abode of Islam."

2. Ibn al-Mufliḥ al- anbalī (717-762 AH), declaring the prevalence and supremacy of Islamic Law as the basis of the definition of 'Abode of Islam', has opined:

فَكُلُّ دَارٍ غَلَبَ عَلَيْهَا أَحْكَامُ الْمُسْلِمِينَ فَذَاكَ الْإِسْلَامُ.

"Every territory where the rules of the Muslims predominate is considered the Abode of Islam."¹

3. Ibn al-Qayyim al- anbalī (691-751 AH), in his *Aḥkām ahl al-dhimma* (2:728), has proclaimed that if the Muslims dwell in a particular territory where Islamic laws are entered into force, it will be considered as the Abode of Islam. In support of his position, he has referred to the opinion held by the majority of the jurists:

قَالَ الْجَمْهُورُ: دَارُ الْإِسْلَامِ هِيَ الَّتِي نَزَلَهَا الْمُسْلِمُونَ وَجَرَتْ عَلَيْهَا
أَحْكَامُ الْإِسْلَامِ.

¹ •Ibn al-Mufliḥ, *al-Ādāb al-shar'iyya*, 1:211.

“The majority opinion holds that the Abode of Islam is the land where Muslims dwell and Islamic pillars are enforced (and practised).”

4. Al-Shawkānī (d. 1255 AH) has defined it in the following way:

وَدَارُ الْإِسْلَامِ مَا ظَهَرَتْ فِيهِ الشَّهَادَتَانِ وَالصَّلَاةُ، وَلَمْ تَظْهَرْ فِيهَا خَصْلَةٌ
كُفْرِيَّةٌ.

“The Abode of Islam is the land wherein a system is instituted on the formula of affirming the Oneness of Allah, witnessing the Messengership of the Prophet and establishing the ritual prayers, and that does not manifest any feature of disbelief.”¹

5. Shaykh Muhammad Abū Zahra (1898–1974 CE) has defined the Abode of Islam in these words:

دَارُ الْإِسْلَامِ هِيَ الدَّوْلَةُ الَّتِي تُحْكَمُ بِسُلْطَانِ الْمُسْلِمِينَ وَتَكُونُ الْمَنَعَةُ
وَالْقُوَّةُ فِيهَا لِلْمُسْلِمِينَ.

“The Abode of Islam is the state where the authority and governance of the Muslim rulers prevail, and the Muslims own its defence and military might.”²

12.1.1 HOW DOES AN ABODE OF ISLAM MORPH INTO AN ABODE OF DISBELIEF AND ABODE OF WAR?

1. Imam Muhammad b. Aḥmad al-Sarakhsī (d. 483 AH) has given a detailed description of the stance of the great Imam Abū Ḥanīfa (d. 150 AH) shared also by his two disciples—Imam Muhammad and Imam Abū Yūsuf—popularly known as *Ṣāhibayn*. Their position on how an Abode of Islam becomes an Abode of Disbelief and Abode of War has appeared as follows:

عِنْدَ أَبِي حَنِيفَةَ إِنَّمَا تَصِيرُ دَارُهُمْ دَارَ الْحَرْبِ بِثَلَاثِ شَرَائِطٍ:

¹ •Al-Shawkānī, *al-Sayl al-jarār*, 4:575.

² •Abū Zuhra, *al-ʿAlāqāt al-duwaliyya fī al-Islām*, p. 56.

أَحَدُهَا: أَنْ تَكُونَ مُتَاحَةً أَرْضَ التُّرْكِ لَيْسَ بَيْنَهَا وَبَيْنَ أَرْضِ الْحَرْبِ
دَارٌ لِلْمُسْلِمِينَ.

وَالثَّانِي: أَنْ لَا يَبْقَى فِيهَا مُسْلِمٌ آمِنٌ بِإِيمَانِهِ، وَلَا ذِمِّيٌّ آمِنٌ بِأَمَانِهِ.

وَالثَّالِثُ: أَنْ يُظْهِرُوا أَحْكَامَ الشُّرْكِ فِيهَا.

وَعَنْ أَبِي يُوسُفَ وَمُحَمَّدٍ: إِذَا أَظْهِرُوا أَحْكَامَ الشُّرْكِ فِيهَا فَقَدْ صَارَتْ
دَارُهُمْ دَارَ حَرْبٍ.

According to Imam Abū anīfa, a land of the Muslims becomes an Abode of War—*dār al-ḥarb*—when three conditions are met:

1. The neighbouring country of an Abode of Islam is an Abode of War and no other Muslim country forms a corridor between the two.
2. Muslim citizens become unsafe and insecure along with their faith and non-Muslim citizens find themselves deprived of safety that their peace treaty had already guaranteed them.
3. The non-Muslim combatants and aggressors capture it and make the non-Islamic and polytheistic law prevail.

In the view of Imam Abū Yūsuf and Imam Muḥammad, such a land morphs into the Abode of War when the invading non-Muslim forces seize it and enter into force the non-Muslim and polytheistic rules.¹

2. In *Badā'i' al-ṣanā'i'*, Imam 'Alā' al-Dīn al-Kāsānī (d. 587 AH) elaborated on this edict issued by Imam Abū anīfa. He writes:

قَالَ أَبُو حَنِيفَةَ: إِنَّمَا لَا تَصِيرُ دَارُ الْكُفْرِ إِلَّا بِثَلَاثِ شَرَائِطٍ:
أَحَدُهَا: ظُهُورُ أَحْكَامِ الْكُفْرِ فِيهَا.

¹ •Al-Sarakhasī, *al-Mabsūt*, 10:114.

وَالثَّانِي: أَنْ تَكُونَ مُتَاخِجَةً لِدَارِ الْكُفْرِ.

وَالثَّالِثُ: أَنْ لَا يَبْقَى فِيهَا مُسْلِمٌ وَلَا ذِمِّيٌّ أَمِنًا بِالْأَمَانِ الْأَوَّلِ وَهُوَ أَمَانُ الْمُسْلِمِينَ.

Imam Abū anīfa holds that unless three conditions are met, an Abode of Islam cannot turn into an Abode of War (*dār al-ḥarb*):

Firstly, non-Islamic rules are enforced.

Secondly, it abuts an Abode of War.

Thirdly, neither a Muslim nor a non-Muslim citizen remains secure under the umbrella of the peace treaty concluded with the non-Muslims by the Muslims.¹

3. In *Durr al-mukhtār*, ‘Ala’ al-Dīn al-askafī (d. 1088 AH) has also quoted the same edict of Imam Abū anīfa with regard to the Abode of Islam developing into an Abode of War. He said:

لَا تَصِيرُ دَارُ الْإِسْلَامِ دَارَ حَرْبٍ إِلَّا بِأُمُورٍ ثَلَاثَةٍ:

بِإِجْرَاءِ أَحْكَامِ أَهْلِ الشَّرْكِ.

وَبِاتِّصَالِهَا بِدَارِ الْحَرْبِ.

وَبِأَنْ لَا يَبْقَى فِيهَا مُسْلِمٌ أَوْ ذِمِّيٌّ أَمِنًا بِالْأَمَانِ الْأَوَّلِ.

An Abode of Islam cannot take the shape of an Abode of War (*dār al-ḥarb*) without the following three conditions:

1. The laws of polytheists are entered into force.
2. It borders an Abode of War.
3. No Muslim or non-Muslim citizen remains protected under the peace treaty of the Muslims with the non-Muslims.²

4. Ibn Qudāma al-anbalī (d. 620 AH) has also taken an account of

¹ •Al-Kāsānī, *Badā’i’ al-ṣanā’i’*, 8:130.

² •Al-aṣḥafī, *al-Durr al-mukhtār*, 4:174-175.

the stipulations mentioned by Imam Abū anīfa. He said:

قَالَ أَبُو حَنِيفَةَ: لَا تَصِيرُ دَارُ حَرْبٍ حَتَّى تَجْمَعَ فِيهَا ثَلَاثَةُ أَشْيَاءَ:
أَنْ تَكُونَ مُتَاحَةً لِدَارِ الْحَرْبِ لَا شَيْءَ بَيْنَهُمَا مِنْ دَارِ الْإِسْلَامِ.
الثَّانِي: أَنْ لَا يَبْقَى فِيهَا مُسْلِمٌ وَلَا ذِمِّيٌّ آمِنٌ.
الثَّالِثُ: أَنْ تُجْرَى فِيهَا أَحْكَامُهُمْ.

According to Imam Abū anīfa, the Abode of Islam does not turn into an Abode of War until three conditions are met:

1. It borders an Abode of War with no commonality of any feature of the Abode of Islam.
2. Neither a Muslim nor a non-Muslim is in a state of peace.
3. The rules of non-Muslims are in effect.¹

5. Shaykh Muhammad b. Aḥmad b. ʿArafa al-Dasūqī al-Mālikī (d. 1230 AH) has opined:

بِلَادُ الْإِسْلَامِ لَا تَصِيرُ دَارُ حَرْبٍ بِأَخْذِ الْكُفَّارِ لَهَا بِالْقَهْرِ مَا دَامَتْ شَعَائِرُ
الْإِسْلَامِ قَائِمَةً فِيهَا. ...

بِلَادُ الْإِسْلَامِ لَا تَصِيرُ دَارُ حَرْبٍ بِمُجَرَّدِ اسْتِيلَائِهِمْ عَلَيْهَا بَلْ حَتَّى
تَنْقُطَعَ إِقَامَةُ شَعَائِرِ الْإِسْلَامِ عَنْهَا، وَأَمَّا مَا دَامَتْ شَعَائِرُ الْإِسْلَامِ أَوْ
غَالِبَهَا قَائِمَةً فِيهَا فَلَا تَصِيرُ دَارُ حَرْبٍ.

As long as the Signs of Islam (*shaʿāʾir al-Islām*) persist, the lands of *dār al-Islām* do not turn into *dār al-ḥarb* just because the disbelievers seize them by force....

Until the Signs of Islam give way and remain no more in practice, the mere upper hand of disbelievers cannot alter the status of Muslim countries and transform them into *dār al-ḥarb*. So long as Islamic rituals are in practice and

¹ •Ibn Qudāma, *al-Mughnī fī fiqh al-Imām Aḥmad b. anbal*, 9:25–26.

predominant, Muslim lands do not become *dār al-ḥarb*.¹

6. Shaykh Aḥmad b. Muhammad al-Ṣawī al-Khalwatī al-Mālikī (d. 1241 AH) has also taken the same position in his work *Bulgha al-sālik li-aqrab al-masālik 'alā Sharḥ al-ṣaghīr li Aḥmad al-Dardīr* (2:187).

7. Elucidating the Salafī standpoint on the issue, al-Shawkānī writes:

إِنْ كَانَتْ الْأَوَامِرُ وَالنَّوَاحِي فِي الدَّارِ لِأَهْلِ الْإِسْلَامِ بِحَيْثُ لَا يَسْتَطِيعُ
مَنْ فِيهَا مِنَ الْكُفَّارِ أَنْ يَتَظَاهَرَ بِكُفْرِهِ إِلَّا لِكَوْنِهِ مَأْذُونًا لَهُ بِذَلِكَ مِنْ أَهْلِ
الْإِسْلَامِ فَهَذِهِ دَارُ إِسْلَامٍ، وَلَا يَضُرُّ ظُهُورُ الْخِصَالِ الْكُفْرِيَّةِ فِيهَا لِأَنَّهَا
لَمْ تَظْهَرْ بِقُوَّةِ الْكُفَّارِ وَلَا بِصَوْلَتِهِمْ كَمَا هُوَ مُشَاهَدٌ فِي أَهْلِ الذِّمَّةِ مِنَ
الْيَهُودِ وَالنَّصَارَى وَالْمُعَاهِدِينَ السَّاكِنِينَ فِي الْمَدَائِنِ الْإِسْلَامِيَّةِ، وَإِذَا
كَانَ الْأَمْرُ الْعَكْسَ فَالدَّارُ بِالْعَكْسِ.

If the Islamic commands and prohibitions are enforced and practised in a country and the disbelievers are not in a position to proclaim their disbelief except that they have a permission from the believers to reside there, it is regarded as an Abode of Islam. It may be noted that the manifestation of the features of disbelief will not do it any harm as they cannot gain currency due to the disbelievers' meagre power and influence. The living conditions of the Jews and the Christians and the non-Muslims with whom there is a peace treaty in Muslim countries provide ample evidence to prove this. However, if matters are reversed, then the status of the abode will be reversed, too (i.e., it will morph into an Abode of Disbelief).²

12.1.2 THE STRINGENT CONDITIONS FOR THE ABODE OF WAR

The preceding comparative study of the ideas and concepts propounded

¹ •Al-Dasūqī, *āshiya 'alā al-Sharḥ al-kabīr*, 2:188.

² •Al-Shawkānī, *al-Sayl al-jarār*, 4:575.

by Imam Abū anīfa (d. 150 AH) and a host of other imams has revealed that the Islamic state will only transform into an Abode of Disbelief or an Abode of War when the following stringent conditions are met:

1. The non-Islamic and polytheistic laws dominate the Abode of Islam: idolatry instead of the belief in the Oneness of Allah prevails; the rules of non-Muslims instead of the Divine and Prophetic laws enter into force; and the Muslim faith and practices are banned.
2. The Muslim and non-Muslim inhabitants are deprived of the protection and security that was conferred on them by the earlier Islamic state—the non-Muslim government completely takes over.
3. The Signs and Rituals of Islam—the call to prayer, the ritual prayers, fasting, pilgrimage and the Alms-due—all of the pillars are abolished.
4. The Muslim community does not enjoy a majority any longer.

It should be noted that the status of an Abode of Islam for a Muslim state is impaired only when it completely meets these conditions. Thus, no one has the right to declare an Islamic state an Abode of War and unleash a spree of violence, tribulations and killings. If a Muslim country meets all but one of the preceding conditions, its status as an Abode of Islam remains intact. Quoting the same edict of Imam Abū anīfa, Imam Abū Ja'far al-Ṭāḥāwī (d. 321 AH) added the following sentence:

إِنْ فَقَدَ شَيْءٌ مِنْ ذَلِكَ لَمْ تَكُنْ دَارَ حَرْبٍ.

“If any of these conditions are unmet, it will not become *dār al-ḥarb* (and will continue as *dār al-Islām*).”¹

12.1.3 THE RATIONALE FOR THE STRINGENT CONDITIONS REGARDING THE ABODE OF WAR

Imam al-Sarakhasī said in *al-Mabsūṭ* (10:114):

أَبُو حَنِيفَةَ يَعْتَبِرُ تَمَامَ الْقَهْرِ وَالْقُوَّةِ، لِأَنَّ هَذِهِ الْبَلَدَةَ كَانَتْ مِنْ دَارِ الْإِسْلَامِ،

¹ •Al-Ṭāḥāwī, *Mukhtaṣar ikhtilāf al-‘ulamā’*, 3:469.

مُحَرَّرَةً لِلْمُسْلِمِينَ فَلَا يَنْطُلُ ذَلِكَ إِلَّا حَرَارُ إِلَّا بِتَمَامِ الْقَهْرِ مِنَ الْمُشْرِكِينَ،
وَذَلِكَ بِاسْتِجَاعِ الشَّرَائِطِ الثَّلَاثِ، لِأَنَّهَا إِذَا لَمْ تَكُنْ مُتَّصِلَةً بِالشَّرِكِ
فَأَهْلُهَا مَقْهُورُونَ بِإِحَاطَةِ الْمُسْلِمِينَ بِهِمْ مِنْ كُلِّ جَانِبٍ، فَكَذَلِكَ إِنْ
بَقِيَ فِيهَا مُسْلِمٌ أَوْ ذِمِّيٌّ آمِنٌ فَذَلِكَ دَلِيلٌ عَدَمِ تَمَامِ الْقَهْرِ مِنْهُمْ.

Imam Abū anīfa considers full spectrum dominance [as a condition], because the said land was the Abode of Islam and a safe haven for the Muslims, and that cannot be cancelled out unless the polytheists gain full control [over it]—and that is only when the three conditions are met. If (in such a case) the polytheist rules are not promoted, it implies that the idolaters are hemmed in from all sides by the besieging Muslims. In a like manner, if the Muslim and non-Muslim citizens are in peace, it implies that the non-Muslims have not attained complete control.

Citing the fatwa issued by the great Imam Abū anīfa, Imam ‘Alā’ al-Dīn al-Kāsānī al-anafī (d. 587 AH) writes in *Badā’i’ al-ṣanā’i’* (7:131):

وَجْهٌ قَوْلِ أَبِي حَنِيفَةَ أَنَّ الْمَقْصُودَ مِنْ إِضَافَةِ الدَّارِ إِلَى الْإِسْلَامِ وَالْكُفْرِ
لَيْسَ هُوَ عَيْنَ الْإِسْلَامِ وَالْكُفْرِ، وَإِنَّمَا الْمَقْصُودُ هُوَ الْأَمْنُ وَالْخَوْفُ.
وَمَعْنَاهُ أَنَّ الْأَمَانَ إِنْ كَانَ لِلْمُسْلِمِينَ فِيهَا عَلَى الْإِطْلَاقِ، وَالْخَوْفُ
لِلْكَفَرَةِ عَلَى الْإِطْلَاقِ، فَهِيَ دَارُ الْإِسْلَامِ، وَإِنْ كَانَ الْأَمَانُ فِيهَا لِلْكَفَرَةِ
عَلَى الْإِطْلَاقِ، وَالْخَوْفُ لِلْمُسْلِمِينَ عَلَى الْإِطْلَاقِ، فَهِيَ دَارُ الْكُفْرِ.
وَالْأَحْكَامُ مَبْنِيَّةٌ عَلَى الْأَمَانِ وَالْخَوْفِ لَا عَلَى الْإِسْلَامِ وَالْكُفْرِ، فَكَانَ
اعْتِبَارُ الْأَمَانِ وَالْخَوْفِ أَوَّلَى، فَمَا لَمْ تَقَعْ الْحَاجَةُ لِلْمُسْلِمِينَ إِلَى
الِاسْتِثْنَاءِ بَقِيَ الْأَمْنُ الثَّابِتُ فِيهَا عَلَى الْإِطْلَاقِ، فَلَا تَصِيرُ دَارُ الْكُفْرِ.

The rationale behind the statement of Imam Abū anīfa is

that the annexation of a 'dār' (abode) with *Islām* and *kufr* is not because of Islam or *kufr per se*. Its implied intent is peace and terror (the Abode of Islam denotes an Abode of Peace and the Abode of Disbelief signifies an Abode of Terror). This means if the Muslims of a country enjoy absolute peace and protection while the disbelievers live under absolute fear (until the Islamic government guarantees their protection), the country is an Abode of Islam. However, if the disbelievers breathe in absolute peace while the Muslims live in absolute fear, the country is (unequivocally) an Abode of Disbelief.

So the application of rules is premised on peace and fear instead of Islamic faith or its rejection (i.e., *kufr*). What matters then is whether the state of peace or fear is supreme. So long as the Muslims are not in need of seeking security and the existing security arrangements persist, the land will not morph into an Abode of Disbelief—*dār al-kufr*.

12.1.4 THE INAPTNESS OF DECLARING AN ABODE OF ISLAM AN ABODE OF DISBELIEF DUE TO PREDOMINANT CORRUPTION

The Salafi scholar al-Shawkānī (d. 1255 AH) has also stated:

إِلْحَاقُ دَارِ الْإِسْلَامِ بِدَارِ الْكُفْرِ بِمُجَرَّدِ وَقُوعِ الْمَعَاصِي فِيهَا عَلَى وَجْهِ
الظُّهُورِ لَيْسَ بِمُنَاسِبٍ لِعِلْمِ الرِّوَايَةِ وَلَا لِعِلْمِ الدَّرَايَةِ.

According to the reported and the acquired knowledge (the teachings of the Qur'ān and Sunna and the application of reason and intellect), declaring an Abode of Islam as the Abode of Disbelief on the ground of predominant corruption and acts of disobedience is inapt and inappropriate.¹

12.1.5 ABSOLUTE POWER AND DOMINANCE ARE A MUST FOR A PLACE TO BE JUDGED AS AN ABODE OF WAR

According to Imam Abū anīfa, an Abode of Islam cannot change

¹ •Al-Shawkānī, *Nayl al-awṭār*, 8:179.

into an Abode of War unless a hostile power assumes absolute and total control. An abode does not undergo change through only partial control. Abū anīfa maintains that the basis for change is not Islam or *kufṛ* *per se*, but rather the basis is security and fear.

As already mentioned, Imam ‘Alā’ al-Dīn al-Kāsānī al-anafī, after citing the edict of Imam Abū anīfa, said:

وَجْهٌ قَوْلِ أَبِي حَنِيفَةَ أَنَّ الْمَقْصُودَ مِنْ إِضَافَةِ الدَّارِ إِلَى الْإِسْلَامِ وَالْكَفْرِ
لَيْسَ هُوَ عَيْنُ الْإِسْلَامِ وَالْكَفْرِ، وَإِنَّمَا الْمَقْصُودُ هُوَ الْأَمْنُ وَالْخَوْفُ.

The underlying logic of Imam Abū anīfa’s statement is that annexing ‘*Dār*’ (abode) with *Islām* and *kufṛ* purposely implies peace and terror (the Abode of Islam denotes an Abode of Peace and the Abode of Disbelief signifies an Abode of Terror).¹

Furthermore, Imam Abū anīfa holds that the relevance of applying the rules is predicated on peace and terror instead of Islamic faith or *kufṛ*. The significance, therefore, of peace and fear is supreme. So long as Muslims are not in need of seeking security and the existing security arrangements endure, the land will not transform into an Abode of Disbelief—*dār al-kufṛ*.²

12.1.6 THE VIEWPOINT OF AL-THĀNWĪ ON THE ABODE OF WAR

Al-Thānwī has cited a quote from Imam Jamāl al-Dīn b. ‘Imād al-Dīn al-anafī’s *Fuṣūl al-ahkām fī usūl al-ahkām* in his famous book *Kashshāf isṭilāḥāt al-funūn* (1:466):

وَلَا خِلَافَ فِي أَنَّهُ يَصِيرُ دَارُ الْحَرْبِ دَارَ الْإِسْلَامِ بِإِجْرَاءِ بَعْضِ أَحْكَامِ
الْإِسْلَامِ فِيهَا.

There is no disagreement that *dār al-ḥarb* becomes *dār al-Islām* due to the enforcement of some of the Shariah laws

¹ •Al-Kasānī, *Badā’i’ al-ṣanā’i’*, 7:131.

² Ibid.

therein (and continues to be so long as the rules operate).¹

Describing the third condition on the change of the Abode of Islam into the Abode of War, he writes:

وَتَالِثُهَا زَوَالُ الْأَمَانِ الْأَوَّلِ، أَيُّ لَمْ يَبْقَ مُسْلِمٌ وَلَا ذِمِّيٌّ أَمِنًا إِلَّا بِأَمَانِ
الْكُفَّارِ، وَلَمْ يَبْقَ الْأَمَانُ الَّذِي كَانَ لِلْمُسْلِمِ بِإِسْلَامِهِ.

[A]nd the third condition is that the treaty of peace concluded earlier will not be operative and in force any longer. Neither a Muslim nor a non-Muslim citizen enjoys protection save by one granted by the disbelievers, and there no longer remains the security that a Muslim enjoyed through his Islam.²

Al-Thānwī further writes with reference to Imam ‘Alī b. Muhammad b. Ismā‘īl al-Isbījābī al-Samarqandī (d. 535 AH):

إِنَّ الدَّارَ مُحْكُمَةً بِدَارِ الْإِسْلَامِ بِبَقَاءِ حُكْمٍ وَاحِدٍ فِيهَا كَمَا فِي الْعِمَادِيَّ،
وَفَتَاوَى عَالَمَغِيرَ، وَفَتَاوَى قَاضِي خَانَ وَغَيْرَهَا.

An abode is determined as *dār al-Islām* by there remaining even a single (Islamic) ruling—as mentioned in ‘*Imādī*, *Fatāwā ‘Ālamgīrī*, and *Fatāwā Qāḍī Khān*, etc.³

12.1.7 A COUNTRY PRACTICING ISLAMIC TEACHINGS AND SIGNS CANNOT BE DECLARED AN ABODE OF WAR

Ibn Qudāma al-anbalī has written with reference to Imam Abū anīfa that, according to the latter, an Abode of Islam does not become an Abode of War until it meets three conditions. The second among them reads: “Not a single Muslim and non-Muslim citizen is in peace.”

Ibn Qudāma added: “[In that case] it will be an Abode of Disbelief. (However, legally, it will not be an Abode of Disbelief or Abode of

¹ Ibid.

² •Al-Thānwī, *Kashshāf isṭilāḥāt al-funūn*, 1:466.

³ Ibid.

War).”¹

Shaykh Muhammad b. Aḥmad b. ‘Arafa al-Dasūqī al-Mālikī (d. 1230 AH) maintains:

بِلَادُ الْإِسْلَامِ لَا تَصِيرُ دَارَ حَرْبٍ بِأَخْذِ الْكُفَّارِ لَهَا بِالْقَهْرِ مَا دَامَتْ
شَعَائِرُ الْإِسْلَامِ قَائِمَةً فِيهَا.

As long as the Signs (and pillars) of Islam remain in practice and enforced, the Islamic lands—*dār al-Islām*—do not become *dār al-ḥarb* merely because of the upper hand of disbelievers.²

12.1.8 NO LAND CAN BE DECLARED AN ABODE OF WAR ONLY DUE TO DISBELIEVERS’ RULE AND AUTHORITY

The jurists of the Mālikī school uphold:

بِلَادُ الْإِسْلَامِ لَا تَصِيرُ دَارَ حَرْبٍ بِمَجَرَّدِ اسْتِيلَاتِهِمْ عَلَيْهَا.

Until the Signs and pillars of Islam are in practice, mere hegemony (or rule and authority) and coercive measures (like financial restrictions) of disbelievers cannot alter the status of Muslim countries into *Dār al- arb*.³

Ibn Taymiyya said:

وَأَمَّا مَنْ لَمْ يَكُنْ مِنْ أَهْلِ الْمَنَاعَةِ وَالْمُقَاتَلَةِ كَالنِّسَاءِ وَالصَّبِيَّانِ
وَالرَّاهِبِ وَالشَّيْخِ الْكَبِيرِ وَالْأَعْمَى وَالزَّمِنِ وَنَحْوِهِمْ فَلَا يُقْتَلُ عِنْدَ
جَمْعِهِ الْعُلَمَاءِ.

A majority of jurists maintain that all non-combatants whether (they are) from women, children, priests, the elderly,

¹ •Ibn Qudāma, *al-Mughnī fī fiqh al-Imām Aḥmad b. anbal*, 9:26.

² •al-Dusūqī, *āshiya ‘alā al-Sharḥ al-kabīr ‘alā Mukhtaṣar Khalīl li al-Dardīr*, 2:188.

³ Ibid.

the blind, the infirm and the like are not allowed to be killed.¹

Ibn al-Qayyim stated in his book *Aḥkām ahl al-dhimma*: "If Muslims are residing in a particular territory and Islamic laws are implemented in it, such a state would be an Abode of Islam." He cited the majority opinion of the jurists:

دَارُ الْإِسْلَامِ هِيَ الَّتِي نَزَلَهَا الْمُسْلِمُونَ وَجَرَتْ عَلَيْهَا أَحْكَامُ الْإِسْلَامِ.

The Abode of Islam is the land in which the Muslims have settled and Islamic pillars are practiced.²

12.2 THE ABODE OF RECONCILIATION (DĀR AL-ṢUL)

An Abode of Reconciliation is the non-Islamic state which enters into a treaty of reconciliation with an Islamic state on some predetermined conditions.

12.2.1 THE DIFFERENCE BETWEEN THE ABODE OF TREATY AND THE ABODE OF RECONCILIATION

Most of the jurists and imams do not find any difference between the Abode of Treaty and the Abode of Reconciliation. However, Imam al-Shāfiʿī described a slight difference between these two. According to him:

An Abode of Treaty is a territory or a non-Muslim country, which enters into a treaty of peace with an Islamic state. Moreover, an Abode of Reconciliation refers to a non-Islamic country or a territory, which was at war with an Islamic state, and then agreed to reconciliation with the Islamic state to withdraw from war on certain conditions. So long as the reconciliation is sustained and armed conflict abates, the territory is regarded as an Abode of Reconciliation.

Imam al-Shāfiʿī has described in *Kitāb al-umm* (4:182) the situation in which an Abode of War becomes an Abode of Reconciliation:

¹ •Ibn Taimiyya, *Majmūʿ al-Fatāwā*, 28:354.

² •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 2:728.

إِذَا غَزَا الْإِمَامُ قَوْمًا فَلَمْ يَظْهَرْ عَلَيْهِمْ حَتَّى عَرَضُوا عَلَيْهِ الصُّلْحَ عَلَى شَيْءٍ... فَعَلَيْهِ أَنْ يَقْبَلَهُ مِنْهُمْ.

When an Islamic state is at war with a non-Islamic state and they present the proposal of reconciliation to the Islamic state during the war, before their victory, then it is incumbent upon the Islamic state to agree to reconciliation.¹

In accordance with Imam al-Shāfi'ī's view, if an Islamic state reconciles with a warring state, then that state will be changed from an Abode of War to an Abode of Reconciliation.

Defining the concept of Abode of Reconciliation, Sh. Muhammad Tāj al-'Arūsī writes in *Fiqh al-jihād wa al-'alaqāt al-duwaliyya fī al-Islām*:

هِيَ الَّتِي لَمْ يَظْهَرْ عَلَيْهَا الْمُسْلِمُونَ وَعَقَدَ أَهْلُهَا الصُّلْحَ بَيْنَهُمْ وَبَيْنَ الْمُسْلِمِينَ عَلَى شَيْءٍ.

It is a territory where Muslims have not overcome [militarily] and in which its inhabitants conclude a treaty of reconciliation with the Muslims according to certain terms.²

12.2.2 INSTRUCTIONS TO FULFIL AGREEMENTS WITH THE ABODE OF RECONCILIATION

In *sūra al-Nisā'*, Allah has ordered Muslims to fulfil their agreements with non-Muslims with utmost sincerity and honesty:

﴿إِلَّا الَّذِينَ يَصِلُونَ إِلَى قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ أَوْ جَاءُوكُمْ حَصِرَتْ صُدُورُهُمْ أَنْ يَقْتُلُوكُمْ أَوْ يُقَاتِلُوا قَوْمَهُمْ وَلَوْ شَاءَ اللَّهُ لَسَلَّطَهُمْ عَلَيْكُمْ فَلَقَاتَلُوكُمْ فَإِنْ اعْتَزَلُوكُمْ فَلَمْ يُقَاتِلُوكُمْ وَأَلْقَوْا إِلَيْكُمُ السَّلَامَ فَمَا جَعَلَ اللَّهُ لَكُمْ عَلَيْهِمْ سَبِيلًا﴾

¹ •Al-Shāfi'ī, *al-Umm*, 4:184.

² •Al-Urūsī, *Fiqh al-jihād wa al-'alaqāt al-duwaliyya fī al-Islām*, p. 333.

﴿But (do not fight) those who have allied with a people that between you and them there is a (peace) treaty, or who (losing heart) come to you in such a state that their breasts are afflicted (with this obsession) whether they should fight you or their own people. If Allah had so willed, He (strengthening their hearts) would have given them supremacy over you. Then they would certainly have fought you. So if they keep away from you and do not fight you and send you (a message) for peace, then (in the interest of peace) Allah has left no way open for you (to launch any aggression) against them.﴾¹

The next verse mentions that if some miscreants and troublemakers commit wrongdoing and terrorism, then it is essential that they are eliminated so that society can be protected from their evils:

﴿فَإِنْ لَمْ يَعْزِلُوا عَنْكُمُ السَّلَامَ وَيَكْفُرُوا أَيْدِيَهُمْ فَخَذُّوهُمْ
وَأَقْتُلُوهُمْ حَيْثُ ثَقِفْتُمُوهُمْ وَأُولَئِكَ جَعَلْنَا لَكُمْ عَلَيْهِمْ سُلْطَانًا
مُبِينًا﴾

﴿So if they do not give up (fighting against you, nor) send you any (message for) peace, (nor) hold their hands off (their disruptive activities), then seize (and capture) them and kill them wherever you find them. And it is they against whom We have granted you unrestricted authority.﴾²

Imam Fakhr al-Dīn al-Rāzī (d. 606 AH) wrote in his commentary on the above verse:

وَالْمَعْنَى ﴿فَإِنْ لَمْ يَعْزِلُوا عَنْكُمُ السَّلَامَ وَيَكْفُرُوا أَيْدِيَهُمْ فَخَذُّوهُمْ وَأَقْتُلُوهُمْ حَيْثُ ثَقِفْتُمُوهُمْ﴾. قَالَ الْأَكْثَرُونَ: وَهَذَا يَدُلُّ عَلَى أَنَّهُمْ إِذَا اعْتَزَلُوا قِتَالَنَا وَطَلَبُوا الصُّلْحَ مِنَّا وَكَفُّوا أَيْدِيَهُمْ عَنْ إِيْذَانِنَا

¹ Qur'ān 4:90.

² Ibid., 4:91.

لَمْ يَجِزْ لَنَا قِتَاهُمْ وَلَا قَتْلُهُمْ.

Many exegetes have stated that this verse signifies that when they (the disbelievers) eschew mischief and refrain from killing us, and want to reconcile with us, then it does not remain permissible for us to kill them.¹

Similarly, verse 12 of *sūra al-Tawba* warns of chastisement for those transgressors who breach promises and covenants. It was revealed:

﴿وَإِنْ نَكَثُوا أَيْمَنَهُمْ مِنْ بَعْدِ عَهْدِهِمْ وَطَعَنُوا فِي دِينِكُمْ فَقَاتِلُوا أَيْمَةَ
الْكُفْرِ إِنَّهُمْ لَا أَيْمَنَ لَهُمْ لَعَلَّهُمْ يَنْتَهُونَ﴾

﴿And if after making a promise (for peaceful bilateral relations), they break their oaths, (and restore the state of war,) and taunt you with sarcasm in your Dīn (Religion), then wage (defensive) war against (those) chieftains of disbelief (to eliminate any chance of mischief, violence and revolt)—surely, their oaths are not worth any regard—so that they may desist (from their mischief-mongering).﴾²

The very next verse of *sūra al-Tawba* enjoins fighting against those who breached the promise, ostracized Allah's Messenger ﷺ and his Companions from Mecca and initiated aggression, invasion and ordeals:

﴿أَلَا تَقَاتِلُونَ قَوْمًا نَكَثُوا أَيْمَنَهُمْ وَهَمُّوا بِإِخْرَاجِ الرَّسُولِ وَهُمْ بَدَءُوكُمْ
أَوَّلَ مَرَّةٍ أَتَخْشَوْنَهُمْ فَاللَّهُ أَحَقُّ أَنْ تَخْشَوْهُ إِنْ كُنْتُمْ مُؤْمِنِينَ﴾

﴿Will you not fight a people who broke their oaths (violating the peace treaty and restoring the state of war), and decided to banish the Messenger (ﷺ) whilst the first time it is they who initiated war against you? Do you fear them? But Allah has more right that you should fear Him,

¹ • Al-Rāzī, *al-Taḥfīr al-kabīr*, 1:179.

² Qur'ān 9:12.

*provided you are believers.*¹

Commenting on this verse, Imam al-Wāḥidī (d. 468 AH) said:

وَأَرَادَ بِنَكْتِ الْيَمِينِ هَهُنَا أَنَّهُمْ نَقَضُوا عَهْدَ الصُّلْحِ بِالْحُدَيْيَةِ، وَأَعَانُوا بَنِي بَكْرٍ عَلَى خُرَاعَةِ، وَهُمْ كَانُوا حُلَفَاءَ رَسُولِ اللَّهِ ﷺ ... وَقَالَ جَمَاعَةٌ مِنَ الْمُفَسِّرِينَ: وَأَرَادَ أَنَّهُمْ قَاتَلُوا حُلَفَاءَكَ خُرَاعَةَ، فَبَدَأُوا بِنَقْضِ الْعَهْدِ ... قَالَ ابْنُ عَبَّاسٍ وَالسُّدِّيُّ وَمُجَاهِدٌ يَعْنِي بَنِي خُرَاعَةَ وَذَلِكَ أَنَّ قُرَيْشًا أَعَانَتْ بَنِي بَكْرٍ عَلَيْهِمْ.

Here breaking oaths connotes that they broke the treaty of udaybiya and supported Banū Bakr against Banū Khuzā'a, while the latter were the allies of the Messenger of Allah ﷺ. Some of the exegetes² hold that it means they fought against the allies of the Messenger of Allah ﷺ—Banū Khuzā'a. In this way, they violated the treaty. According to Ibn 'Abbās, al-Suddī and Mujāhid, it refers to Banū Khuzā'a, because the people of Quraysh pitted and supported Banū Bakr against them.³

Ibn Kathīr has interpreted this verse in the following manner:

الَّذِينَ هَمُّوا بِإِخْرَاجِ الرَّسُولِ مِنْ مَكَّةَ. ... وَقَوْلُهُ: ﴿وَهُمْ بَدَءُوكُمْ أَوَّلَ مَرَّةٍ﴾. قِيلَ: الْمُرَادُ بِذَلِكَ يَوْمَ بَدْرٍ ... وَقِيلَ الْمُرَادُ نَقَضَهُمُ الْعَهْدَ وَقَاتَاهُمْ مَعَ حُلَفَائِهِمْ بَنِي بَكْرٍ لِمُخَارَعَةِ أَحْلَافِ رَسُولِ اللَّهِ ﷺ حَتَّى سَارَ إِلَيْهِمْ رَسُولُ اللَّهِ ﷺ عَامَ الْفَتْحِ.

[Regarding the clause] "Those who planned to exile the

¹ Ibid., 9:13.

² •Al-Baghawī, *Ma'alim al-tanzīl*, 2:273. •al-Qurṭubī, *al-Jāmi' li aḥkām al-Qur'ān*, 8:55. •Ibn 'ayyān, *al-Baḥr al-muḥīṭ*, 5:17. •Ibn Kathīr, *Tafsīr al-Qur'ān al-'Aẓīm*, 4:60. •al-Shawkānī, *Fath al-qadīr*, 2:343.

³ •Al-Wāḥidī, *al-Wasīṭ fi tafsīr al-Qur'ān al-Majīd*, 2:481.

Messenger of Allah ﷺ from Mecca...,” in view of some of the exegetes, it refers to the battle of Badr, though others have interpreted it as the breach of the treaty of peace by the polytheists of Mecca with Muslims and the aiding their allies, Banū Bakr, and fighting against the allies of the Messenger of Allah ﷺ, Banū Khuzā'a, until the Messenger of Allah ﷺ marched on Mecca in the year of conquest.¹

With respect to the Abode of Reconciliation, Imam al-Jaṣṣāṣ has quoted a statement of Muhammad b. al- asan in *Aḥkām al-Qur'ān* (5:83). In it he says that demolishing the places of worship belonging to non-Muslims located in the Muslim majority areas is strictly prohibited, and their security is a constitutional obligation of the Islamic state. Imam Muhammad b. al- asan has said:

فِي أَرْضِ الصُّلْحِ إِذَا صَارَتْ مِصْرًا لِلْمُسْلِمِينَ، لَمْ يُهْدَمْ مَا كَانَ فِيهَا مِنْ
بَيْعَةٍ أَوْ كَنِيسَةٍ أَوْ بَيْتِ نَارٍ.

When a land under reconciliation becomes a territory of the Muslims, then no church, sanctuary, or Zoroastrian temple that was there before should be demolished.²

12.2.3 PREFERENCE OF RECONCILIATION AND COMPROMISE FOR THE ESTABLISHMENT OF PEACE

In *sūra al-Anfāl*, the Muslims have been inspired to adopt reconciliation to restore and stabilize peace and security. Allah has ordained:

﴿وَإِنْ جَنَحُوا لِلسَّلَامِ فَاجْنَحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ إِنَّهُ هُوَ السَّمِيعُ
الْعَلِيمُ﴾ وَإِنْ يُرِيدُوا أَنْ يَخْدَعُوكَ فَإِنَّ حَسْبَكَ اللَّهُ

﴿And if they (the combatant or hostile disbelievers) incline to peace and reconciliation, you also incline to it and put your trust in Allah. Surely, He alone is All-Hearing, All-Knowing. And if they seek to deceive you, then surely Allah

¹ • Ibn Kathīr, *Tafsīr al-Qur'ān al-Azīm*, 2:340.

² • Al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 5:83.

is Sufficient for you. ﴿¹

Despite all the peace making and reconciliatory actions, if an opponent breaks the treaty and comes out with open enmity, then the treaty can be terminated on the grounds of equality. The Muslims are instructed to be patient, if the opponent does not act against the treaty. In this regard, Allah Most High has said:

﴿وَأَمَّا تَخَافَنَّ مِنْ قَوْمٍ خِيَانَةً فَانْبِذْ إِلَيْهِمْ عَلَى سَوَاءٍ إِنَّ اللَّهَ لَا يُحِبُّ
الْخَائِنِينَ﴾

*And if you apprehend treachery from a people, then
throw their promise back to them on the basis of equality.
Indeed, Allah does not like the treacherous.* ﴿²

What could be a better testimony to believe that Islam is a religion of peace, security and reconciliation than the truth to which Allah guided His exalted Messenger ﷺ: to provide asylum to a polytheist if he seeks it? Allah says:

﴿وَإِنْ أَحَدٌ مِنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّى يَسْمَعَ كَلِمَ اللَّهِ ثُمَّ
أَبْلِغْهُ مَأْمَنَهُ دَٰلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ﴾

*And if any of the idolaters seeks asylum with you, provide
him with protection until he listens to the Words of Allah.
Then escort him to his haven. This is because these people
do not possess the knowledge (of the truth).* ﴿³

12.3 THE ABODE OF TREATY (DĀR AL-‘AHD)

Defining the Abode of Treaty, Shaykh Abū Zahra (1897–1974 CE) writes:

وَهَذِهِ الْبِلَادُ هِيَ الَّتِي كَانَ بَيْنَهَا وَبَيْنَ الْمُسْلِمِينَ عَهْدٌ.

¹ Qur’ān 8:61–62.

² Ibid., 8:58.

³ Ibid., 9:6.

(An Abode of Treaty) refers to those states where Muslims and non-Muslims are bound by a treaty.¹

Shaykh Abū Zahra speaks about the differences between the two states (the Abode of Islam and the Abode of Reconciliation) with mutual harmony and consent about the conditions of agreement. He opines that the conditions of both states may be different, relative to their respective power and might, or weaknesses and limitations.

فَأَهْلُهَا يَعْقِدُونَ صُلْحًا مَعَ الْحَاكِمِ الْإِسْلَامِيِّ عَلَى شُرُوطٍ تُشْتَرَطُ مِنَ
الْفَرِيقَيْنِ، وَهَذِهِ الشُّرُوطُ تَخْتَلِفُ قُوَّةً وَضَعْفًا عَلَى حَسَبِ مَا يَتَرَاوَى عَلَيْهِ
الطَّرَفَانِ، وَعَلَى حَسَبِ هَذِهِ الْقَبَائِلِ وَتِلْكَ الدَّوْلَةِ قُوَّةً وَضَعْفًا، وَعَلَى
مِقْدَارِ حَاجَتِهَا إِلَى مُنَاصَرَةِ الدَّوْلَةِ الْإِسْلَامِيَّةِ.

The rulers of this territory (combatants) reconcile with the current Islamic state on the conditions determined by the parties (to the conflict). These conditions may differ according to the mutual agreement based on the control and weakness of the tribes and governments, and it may also differ according to the need of support and assistance of the Islamic state.²

An Abode of Treaty can also be defined as:

All the non-Islamic states that are in a long-term or permanent peace treaty with the Islamic states, whether or not they enter into the condition of immigration or citizenship, are included in an Abode of Treaty.

It is the firm responsibility of the Islamic state to fulfil all the terms and conditions of the treaty.

12.3.1 QUR'ANIC INJUNCTION TO FULFIL AGREEMENTS WITH AN ABODE OF TREATY

Allah Most High commanded Muslims to complete the terms of the

¹ •Abū Zuhra, *al-ʿAlāqāt al-duwāliyya fī al-Islām*, p. 58.

² Ibid., p. 59.

treaties with the tribes of the disbelievers who did not break the treaty and did not rebel against the state of Medina. In *sūra al-Tawba*, Allah Most High said:

﴿إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْقُصُوكُمْ شَيْئًا وَلَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتِمُوا إِلَيْهِمْ عَهْدَهُمْ إِلَىٰ مُدَّتِهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ﴾

*Except those idolaters with whom you made an agreement, who then did not show any latitude (in executing the treaty) and who did not support (or reinforce) anyone against you. So fulfil the treaty with them till the end of the term. Surely, Allah loves those who fear Him.*¹

In the commentary on the above verse, Imam al-Wāḥidī has said:

قَوْلُهُ ﴿إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ﴾ قَالَ الْمُفَسِّرُونَ: اسْتَشْنَى اللَّهُ طَائِفَةً وَهُمْ بَنُو ضَمْرَةَ هِيَ مِنْ كِنَانَةَ أَمَرَ النَّبِيُّ ﷺ بِإِتْمَامِ عُهُودِهِمْ، وَكَانَ قَدْ بَقِيَ لَهُمْ مِنْ مُدَّةِ عَهْدِهِمْ تِسْعَةُ أَشْهُرٍ وَقَوْلُهُ: ﴿لَمْ يَنْقُصُوكُمْ شَيْئًا﴾ أَيَّ مِنْ شُرُوطِ الْعَهْدِ ﴿وَلَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا﴾ لَمْ يُعَاوَنُوا عَلَيْكُمْ عَدُوًّا ﴿فَأَتِمُوا إِلَيْهِمْ عَهْدَهُمْ إِلَىٰ مُدَّتِهِمْ﴾ أَيَّ إِلَىٰ انْقِضَاءِ مُدَّتِهِمْ.

About the words of Allah Most High: *Except those idolaters with whom you made an agreement*, the interpreters said: "Allah has given an exception to a group named Banū Ḍamra, a tribe of Banū Kināna. The Messenger of Allah ﷺ gave instructions to complete the term of the agreement with them, as there were nine months left till the end the term. Then Allah Most High said: *Who then did not show any latitude* in executing the treaty, which refers to the conditions of the treaty *and who did not support (or reinforce) anyone against you* and they did not help your enemies, *So fulfil the treaty with them till the end of the*

¹ Qur'an 9:4.

term, that is, until the period of agreement ends.”¹

Later, in another verse of *sūra al-Tawba*, Allah Most High ordered the Muslim state to complete the term of the treaty signed with the non-Muslim states. The Qur’ān reveals:

﴿كَيْفَ يَكُونُ لِلْمُشْرِكِينَ عَهْدٌ عِنْدَ اللَّهِ وَعِنْدَ رَسُولِهِ إِلَّا الَّذِينَ
عَاهَدْتُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ فَمَا اسْتَقْلَمُوا لَكُمْ فَاسْتَقِيمُوا لَهُمْ إِنَّ اللَّهَ
يُحِبُّ الْمُتَّقِينَ﴾

﴿(How) can there be a promise for the polytheists with Allah and His Messenger (ﷺ) except for those with whom you have made a treaty near the Sacred Mosque (at al-Hudaybiya)? So as long as they remain true to (the treaty with) you, remain true to them. Surely, Allah loves those who fear Him.﴾²

This is an ample proof of the veracity of the Dīn [religion] of Islam as a religion of peace and security. The people of Medina were not allowed to use force and take up arms against the people of Mecca until the Meccans themselves breached their promise on the treaty of udaybiya and attacked and killed the allies of the state of Medina.

A study of the biography of Allah’s Messenger (ﷺ) will unfold that he concluded two kinds of treaties with non-Muslim communities.

1. A Temporary or Long-Term Treaty.
2. A General Treaty.

12.3.1.1 A TEMPORARY OR LONG-TERM TREATY

The best example of a temporary treaty or a long-term treaty was the pact of udaybiya, which came into effect in the sixth year after migration to Medina, between the state of Medina and the pagans of Mecca. This peace treaty laid aside war for ten years between these two states. In this way, both states were tied to the treaty of peace and the state of war was suspended.

¹ •Al-Wāḥidī, *al-Wasīṭ fī tafsīr al-Kitāb al-‘Azīz*, 2:479.

² Qur’ān, 9:7.

1. Imam al-Shāfi'ī (150–204 AH) has described the duration of the temporary or long-term treaty of *Udaybiya*:

كَانَتْ الْهُدْنَةُ بَيْنَهُ وَبَيْنَهُمْ عَشْرَ سِنِينَ.

The treaty of *Udaybiya* between him (Allah's Messenger ﷺ) and the people of Mecca was for ten years.¹

Abū Dāwūd has reported in *al-Sunan*

أَتَاهُمْ اضْطَلَحُوا عَلَى وَضْعِ الْحَرْبِ عَشْرَ سِنِينَ يَأْمَنُ فِيهِنَّ النَّاسُ وَعَلَى أَنْ بَيْنَنَا عِيَّةٌ مَكْفُوفَةٌ وَأَنَّهُ لَا إِسْلَالَ وَلَا إِغْلَالَ.

"They (the Quraysh) reconciled that they will observe the truce and honour a ten-year no-war pact. People will reside in peace during that period, and no differences and spite will load the hearts of both the parties, and they will neither backbite each other nor express any malice face to face."²

2. Ibn al-Qayyim al-Jawzī, in his book *Zād al-ma'ād fī hady Khayr al-'Ibād* (3:299), has expressed his views about this treaty between the Muslims of Medina and the people of Mecca. He said:

وَجَرَى الصُّلْحُ بَيْنَ الْمُسْلِمِينَ وَأَهْلِ مَكَّةَ عَلَى وَضْعِ الْحَرْبِ عَشْرَ سِنِينَ.

The truce between the Muslims and the people of Mecca was to be in effect for ten years.

In the light of this treaty, the state of Medina was considered an Abode of Islam, and the State of Mecca was considered an Abode of Treaty. The state of Medina conformed to the treaty, until the people of Quraysh themselves breached it.

3. Imam 'Abd al-Malik b. Hishām (d. 218 AH), on the authority of Ibn Ishāq (d. 150 AH), reported the details of the violation of the treaty of

¹ •Al-Shāfi'ī, *al-Umm*, 4:189. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:221.

² •Abū Dāwūd, *al-Sunan*, 3:86 §2766

udaybiya:

فَلَمَّا تَظَاهَرْتَ بَنُو بَكْرٍ وَقُرَيْشٌ عَلَى خُرَاعَةٍ، وَأَصَابُوا مِنْهُمْ مَا أَصَابُوا،
وَنَقَضُوا مَا كَانَ بَيْنَهُمْ وَبَيْنَ رَسُولِ اللَّهِ ﷺ مِنَ الْعَهْدِ وَالْمِيثَاقِ بِمَا
اسْتَحْلَوْا مِنْ خُرَاعَةٍ، وَكَانُوا فِي عَقْدِهِ وَعَهْدِهِ.

Banū Bakr (allies of the polytheists of Mecca) and Quraysh attacked Khuzā'a (the allies of the Messenger of Allah ﷺ) and inflicted on them suffering and killings, breaching the treaty which was between them and the Messenger of Allah ﷺ.¹

4. Imam Abū Ja'far b. Jarīr al-Ṭabarī (224–310 AH), in his commentary *Tafsīr Jāmi' al-bayān fī tafsīr al-Qur'ān* (10:82), also cited the violation of the treaty of Udaybiya by the polytheists of Mecca. He said: "The people of Mecca did not stick to the treaty and breached it by pitting and supporting Banū Bakr (the allies of Quraysh) against the allies of the Messenger of Allah ﷺ (Banū Khuzā'a)."

5. Imam Abū Ḥasan 'Alī b. Aḥmad al-Wāḥidī (d. 468 AH) said about the treachery of the polytheists and their violation of the truce in his commentary on the verse of *sūra al-Tawba*:

﴿وَتَأْتِي قُلُوبُهُمْ﴾ الْوَفَاءُ بِهِ ﴿وَأَكْثَرُهُمْ فَاسِقُونَ﴾ غَادِرُونَ نَاقِضُونَ
لِلْعَهْدِ.

﴿Their hearts abstain﴾ from maintaining the treaty, ﴿and the majority of them are corrupt﴾, that is, traitorous and betrayers of the treaty.²

12.3.1.2 THE GENERAL TREATY OF PEACE AND RECONCILIATION

12.3.1.2.1 THE PACT OF MEDINA

Here are some of the articles of the pact of Medina. They highlight

¹ •Ibn Hishām, *al-Sīra al-Nabawiyya*, 5:48.

² •Al-Wāḥidī, *al-Wasīṭ fī tafsīr al-Kitāb al-ʿAzīz*, 1:454–455.

some distinctive features of the first written constitution of humanity.

1. Weaving unity amongst all the communities of Medina at the state level, Allah's Messenger ﷺ said:

إِنَّهُمْ أُمَّةٌ وَاحِدَةٌ مِنْ دُونِ النَّاسِ.

"These communities shall be as one unified [constitutional and political] body, distinct from (other) people."¹

2. Establishing a separate political identity and brotherhood for Muslims, the Prophet ﷺ said:

وَأَنَّ الْمُؤْمِنِينَ بَعْضُهُمْ مَوَالِي بَعْضٍ دُونَ النَّاسِ.

"As compared to other communities, all believers are brothers to one another."²

3. Providing the guarantee of equity, equality, security, justice and support to the Jews who entered into the pact and accepted the writ of the state of Medina, Allah's Messenger ﷺ said:

مَنْ تَبِعَنَا مِنْ يَهُودٍ فَإِنَّ لَهُ النَّصْرَ وَالْأُسُوءَةَ غَيْرَ مَظْلُومِينَ وَلَا مُتَنَاصِرِينَ عَلَيْهِمْ.

"The Jews who obey our rule shall be given assistance and equality. They shall not be wronged, nor will anyone be supported against them."³

4. In the first article of the pact of Medina, Muslims are regarded as the allies of the Jews. In article twenty-eight, the Jews and other non-Muslims are given a separate identity along with religious freedom. The Messenger of Allah ﷺ clarified:

¹ •Ibn Hishām, *al-Sīra al-Nabawiyya*, 3:32. •Ibn Kathīr, *al-Bidāya wa al-nihāya*, 3:224.

² •Ibn Hishām, *al-Sīra al-Nabawiyya*, 3:33. •Ibn Kathīr, *al-Bidāya wa al-nihāya*, 3:225.

³ •Ibn Hishām, *al-Sīra al-Nabawiyya*, 3:33. •Ibn Kathīr, *al-Bidāya wa al-nihāya*, 3:225.

إِنَّ يَهُودَ بَنِي عَوْفٍ أُمَّةٌ مَعَ الْمُؤْمِنِينَ، لِلْيَهُودِ دِينُهُمْ وَلِلْمُسْلِمِينَ دِينُهُمْ
مَوَالِيَهُمْ وَأَنْفُسُهُمْ، إِلَّا مَنْ ظَلَمَ أَوْ أَثِمَ فَإِنَّهُ لَا يُوتَغُ إِلَّا نَفْسُهُ وَأَهْلُ بَيْتِهِ.

“The Jews of Banū ‘Awf (non-Muslim minorities) shall be considered a single political unity with the believers. As for Jews, they have their religion (*dīn*), and as for Muslims, they have their Religion (*Dīn*). And he who commits wrongdoing or sins will not harm anyone else other than himself and his family.”¹

12.3.1.2.2 DEVELOPING POLITICAL UNITY TO STABILIZE THE STATE AND ESTABLISH PEACE

The Messenger of Allah ﷺ clarified:

لَا فَضْلَ لِعَرَبٍ عَلَى أَعْجَمِيٍّ وَلَا لِعَجَمِيٍّ عَلَى عَرَبٍ وَلَا لِأَحْمَرَ عَلَى أَسْوَدَ
وَلَا لِأَسْوَدَ عَلَى أَحْمَرَ إِلَّا بِالتَّقْوَى

“An Arab has no superiority over a non-Arab, nor does a non-Arab has any superiority over an Arab. A white has no superiority over a black, and a black has no superiority over a white. The standard of superiority is piety (*taqwā*) alone.”²

Describing the sociopolitical freedom of all groups and the nature of their relations with Muslims, the Messenger of Allah ﷺ said:

وَكُلُّ طَائِفَةٍ تَقْدِي عَائِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.

“Every group shall pay the penalty equally and justly and free their prisoners from the custody of Muslims.”³

¹ •Ibn Hishām, *al-Sīra al-Nabawiyya*, 3:34. •Ibn Kathīr, *al-Bidāya wa al-nihāya*, 3:225.

² Set forth by •Aḥmad b. anbal in *al-Musnad*, 5:411 §23536. •al-Ṭabarānī in *al-Muʿjam al-awsaṭ*, 5:86 §4749. •al-Bayhaqī in *Shuʿab al-īmān*, 4:289 §5137.

³ Cited by •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:501. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:106 §16147-16148. •Ibn Kathīr in *al-Bidāya wa al-nihāya*, 3:224. •Dr Hamīd Ullāh in *al-Wathāʾiq al-siyāsīyya*, p. 41.

12.3.1.2.3 ALLAH'S MESSENGER ﷺ IS THE FOUNDER OF THE CONCEPT OF INTEGRATION

The Messenger of Allah ﷺ united all the communal groups into a single community despite their religious, linguistic, and racial differences, and became the founder of the concept of integration—the sole means of remedying the socio-civilizational and cultural conflicts and enigmas devouring the modern world.

Today we are engaged in a marathon struggle at global level to win religious, social, cultural and economic freedoms for every class and community of human society. The Messenger of Islam, however, bestowed upon humanity these freedoms, especially the religious freedom—not only for the Jews but all the tribes and ethnic entities more than fourteen centuries ago. He ﷺ proclaimed:

إِنَّ يَهُودَ بَنِي عَوْفٍ أُمَّةٌ مَعَ الْمُؤْمِنِينَ.

“The Jews of Banū ‘Awf—non-Muslim citizens—shall be considered a single political unity with the believers.”¹

Thus he knitted them into a single community along with the Muslims.

12.3.1.2.4 THE PACT OF NAJRĀN

Allah's Messenger ﷺ had guaranteed the security of the lives and properties of the people of Najrān. The instrument of protection was an agreement concluded between the Messenger of Allah ﷺ and the Christians of Abyssinia. This agreement, the pact of Najrān brought about in the Prophet's period, is a concrete and practical evidence of his protection of human rights—especially the right of religious freedom and security. In that regard, the Messenger of Allah ﷺ issued this guarantee:

وَلِنَجْرَانَ وَحَاشِيَتِهَا ذِمَّةُ اللَّهِ وَذِمَّةُ مُحَمَّدٍ النَّبِيِّ رَسُولِ اللَّهِ، عَلَى دِمَائِهِمْ وَأَنْفُسِهِمْ وَأَرْضِهِمْ وَأَمْوَالِهِمْ وَمِلَّتِهِمْ وَرَهْبَانِيَّتِهِمْ وَأَسَاقِفَتِهِمْ وَغَائِبِهِمْ

¹ •Ibn Hishām, *al-Sīra al-Nabawiyya*, 3:34.

وَشَاهِدِهِمْ وَغَيْرِهِمْ وَبَعْتِهِمْ وَأَمْلَتِهِمْ، لَا يُغَيَّرُ مَا كَانُوا عَلَيْهِ، وَلَا يُغَيَّرُ
حَقٌّ مِنْ حُقُوقِهِمْ وَأَمْلَتِهِمْ، لَا يُفْتَنُ أُسْقُفٌ مِنْ أُسْقُفِيَّتِهِ، وَلَا رَاهِبٌ مِنْ
رَهْبَانِيَّتِهِ، وَلَا وَاَقِفٌ مِنْ وَقَافِيَّتِهِ، عَلَى مَا تَحْتَ أَيْدِيهِمْ مِنْ قَلِيلٍ أَوْ كَثِيرٍ،
وَلَيْسَ عَلَيْهِمْ رَهَقٌ.

“Indeed, Najrān and her allies are under the guarantee of Allah and the guarantee of the Messenger of Allāh ﷺ. They are to be protected in their blood, lives, lands, wealth, religion, monks and priests, those who are present amongst them and those who are absent, their animals and caravans, and their places of worship. They should not be forced to change their religion. There will be no change in their rights and the rights of their places of worship. No priest or monk, and no leader or servant of places of worship shall be removed from their places or possessions, be they plentiful or scarce, and no one should suffer fear or danger.”¹

The Messenger of Allah ﷺ awarded a constitutional and legal status to the security of people in treaty through his covenants, treaties and commandments.²

These details clarify that it is not permissible to declare non-Muslim states as Abodes of War when they are under treaties and agreements of peace and reconciliation. On the contrary, they fall into the category of the Abodes of Treaty. Therefore, those who revolt, rebel and murder, and breach the treaty with the Abode of Treaty are declared misguided and evicted from the pale of Islam. The Prophet ﷺ said: “They are not from me.” He removed them from his *Umma*. Abū Hurayra رضي الله عنه related that Allah’s Messenger ﷺ warned against the masterminds and instigators of turmoil, saying:

¹ Cited by •Ibn Sa’d in *al-Tabaqāt al-kubrā*, 1:288, 358. •Abū Yūsuf in *al-Kharāj*, 78. •Abū ‘Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, p. 244–245 §503. •Ibn Zanjawayh in *Kitāb al-amwāl*, pp. 449–450 §732. •al-Balādhurī in *Futūḥ al-buldān*, p. 90.

² Cited by •Ibn Zanjawayh in *Kitāb al-amwāl*, pp. 450–451 §732.

مَنْ خَرَجَ مِنَ الطَّاعَةِ وَفَارَقَ الْجَمَاعَةَ قَمَاتَ، مَاتَ مِيتَةً جَاهِلِيَّةً، وَمَنْ قَاتَلَ تَحْتَ رَايَةٍ عِمِّيَّةٍ يَغْضَبُ لِعَصْبَةٍ أَوْ يَدْعُو إِلَى عَصْبَةٍ أَوْ يَنْصُرُ عَصْبَةً فَقُتِلَ فَقِتْلَةً جَاهِلِيَّةً، وَمَنْ خَرَجَ عَلَى أُمَّتِي يَضْرِبُ بَرَّهَا وَفَاجِرَهَا وَلَا يَتَحَاشَى مِنْ مُؤْمِنِهَا وَلَا يَفِي لِذِي عَهْدٍ عَهْدَهُ فَلَيْسَ مِنِّي وَلَسْتُ مِنْهُ.

“Whoever rebels against the writ of the Muslim state [and challenges its authority] and separates himself from the community [*jamā'a*] and then dies, he dies the death of one in a state of *jāhiliyya* [pre-Islamic time of ignorance]. And whoever fights under a blind banner, becomes angry for the sake of ignorant bigotry, calls to ignorant bigotry and gives support to blind bigotry and is then killed, his death is one of *jāhiliyya*. And whoever secedes from my nation [and rebels against the state, raising legions and troops], killing its righteous and sinful members and feels no compunction [in killing] its believers and does not fulfil the oath of the one from whom an oath is taken, then he is not from me and I am not from him.”¹

The hadith of the Messenger of Allah ﷺ clearly mentions that the one who violently rebels against an Abode of Treaty does not belong to the *Umma*.

12.4 THE ABODE OF PEACE (*DĀR AL-AMN*)

Against the backdrop of the modern era, we can describe an Abode of Peace in the following way:

The Abode of Peace includes those non-Islamic states that never behaved aggressively or engage in combat or military actions against the Muslim state. They are neither enemies, nor has any treaty of peace been concluded with them, nor

¹ Set forth by •Muslim in *al-Shaḥīḥ: Kitāb al-imāra* [The Book of Leadership], chapter: “The Obligation to Stick to the Main Body of the Muslims in the Time of Trials,” 3:1476–1477 §1848. •Aḥmad b. Ḥanbal in *al-Musnad*, 2:296, 488. •al-Nasā'ī in *al-Sunan: Kitāb taḥrīm al-dam* [The Book on the Prohibition of Bloodshed], 7:123 §4114.

did any such situation arise to work out any agreement—such are the countries that fall into the category of Abode of Peace.

It must be borne in mind that an Abode of War is the state engaged in war with another state. The rest of the states are Abodes of Treaty and Abodes of Peace through the treaty of peace of the United Nations; they are not Abodes of War. In modern times, by virtue of the United Nations, all countries, including the United States of America, Great Britain, and other non-Muslim countries, are the Abodes of Treaty and the Abodes of Peace.

12.4.1 THE HANAFĪ STANCE ON THE ABODE OF ISLAM

The Hanafī jurists have figuratively regarded all those non-Islamic combating or non-combating states as the Abodes of Islam where the Muslims are allowed to openly practise the signs and rituals of Islam. In their view, any non-Muslim country becomes an Abode of Islam when Islamic rules are openly practised.

In the view of Imam Abū anīfa, an Abode of Islam does not mean the territory where Muslims dwell; nor does an Abode of Disbelief indicate a country where disbelievers abide. In view of the Hanafīs, the annexation of *dār* (abode) with *Islām* and *kufr* does not connote Islam or *kufr*; it rather refers to peace and fear. The rules will be applied on the basis of peace and fear and will not be premised on Islam and *kufr*. In this connection, see once again the statement of Imam al-Kāsānī that has appeared in *Badā'i' al-ṣanā'i'* already quoted in the preceding pages:

وَجْهٌ قَوْلِ أَبِي حَنِيفَةَ أَنَّ الْمَقْصُودَ مِنْ إِضَافَةِ الدَّارِ إِلَى الْإِسْلَامِ وَالْكَفْرِ
لَيْسَ هُوَ عَيْنَ الْإِسْلَامِ وَالْكَفْرِ، وَإِنَّمَا الْمَقْصُودُ هُوَ الْأَمْنُ وَالْخَوْفُ.

The rationale of the statement of Imam Abū anīfa's is that the annexation of '*dār*' (abode) with *Islām* and *kufr* is not because of Islam or *kufr per se*. Its implied intent is peace and fear. The Abode of Islam denotes an Abode of Peace and the Abode of Disbelief signifies an Abode of Terror.¹

According to the great Imam Abū anīfa, the Abode of Islam and

¹ •Al-Kāsānī, *Badā'i' al-ṣanā'i'*, 7:131.

the Abode of Disbelief do not imply the religion Islam and its denial i.e., *kufr*. They rather connote that any state where there is security for Muslims is regarded as an Abode of Islam, and any state where there is no guarantee of peace and protection for the Muslims or non-Muslims is deemed an Abode of Disbelief. They are not distinguished on the basis of religion. Instead, they are based on peace, security, protection and freedom that have been provided to or withdrawn from them.

The great Imam said:

وَالْأَحْكَامُ مَبْنِيَّةٌ عَلَى الْأَمَانِ وَالْخَوْفِ لَا عَلَى الْإِسْلَامِ وَالْكَفْرِ.

The rulings (concerning the classification of the abodes) are based on security and fear—not Islam and *kufr* (disbelief).¹

Taking into account the situations of security and fear is of greater concern. So long as the Muslims are not in need of seeking security, and peace and security already provided endures, the land does not become *dār al-kufr*.

Here are some expositions propounded by the *anafī* jurists on this subject.

1. Imam ‘Alā’ al-Dīn al-Kāsānī al-*anafī* (d. 587 AH) declares a non-Muslim country an Abode of Islam on the basis of the manifestation of Islamic rules through implementation (freedom to practise the teachings and rituals of Islam). He writes:

فَنَقُولُ لَا خِلَافَ بَيْنَ أَصْحَابِنَا فِي أَنَّ دَارَ الْكُفْرِ تَصِيرُ دَارَ إِسْلَامٍ بِظُهُورِ
أَحْكَامِ الْإِسْلَامِ فِيهَا.

We (unanimously) proclaim—and there is no difference on this matter among us—that any non-Muslim state becomes an Abode of Islam when Islamic rules and injunctions appear (as freely practised).²

2. ‘Alā’ al-Dīn al-Ḥaṣḥakafī (d. 1088 AH) has given his viewpoint in *al-Durr al-mukhtār fī sharḥ tanwīr al-abṣār* (4:175):

¹ Ibid.

² Ibid.

دَارُ الْحَرْبِ تَصِيرُ دَارَ الْإِسْلَامِ بِإِجْرَاءِ أَحْكَامِ أَهْلِ الْإِسْلَامِ فِيهَا كَجُمُعَةٍ
وَعِيدٍ، وَإِنْ بَقِيَ فِيهَا كَافِرٌ أَصْلِيٌّ وَإِنْ لَمْ تَتَّصِلْ بِدَارِ الْإِسْلَامِ.

If Islamic pillars enter into practice, like offering the Friday ritual prayer and the 'īd ritual prayers in any non-Muslim Abode of War, that state becomes an Abode of Islam, though the majority of residents may be non-Muslims and it may not border an Islamic state.

3. The same definition is given by 'Abd al-Rahmān b. Shaykh Muhammad b. Sulaymān, generally known as Shaykh Zādah (d. 1078 AH), in *Majma' al-anhur fī sharḥ Multaqā al-abhur* (2:455).

4. In the backdrop of the current scenario, Shaykh Abū Zahra has also mentioned this point of view in his *al-'Alāqāt al-duwaliyya fī al-Islām*. According to him, in modern times the whole world has united under one international system. Practising this particular universal law is, in fact, congruous with the Islamic principle of the fulfillment of a treaty. Therefore, from the beginning, all non-Islamic member countries of the United Nations will not be included among the Abodes of War. They will rather fall into the category of the Abode of Treaty, except for the state that is directly at war with a Muslim country. He writes:

إِنَّهُ يَجِبُ أَنْ يُلَاحَظَ أَنَّ الْعَالِمَ الْآنَ تَجْمَعُهُ مُنَظَّمَةٌ وَاحِدَةٌ قَدْ التَزَمَ كُلُّ
أَعْضَائِهَا بِقَانُونِهَا وَنَظْمِهَا، وَحُكْمِ الْإِسْلَامِ فِي هَذِهِ: أَنَّهُ يَجِبُ الْوَفَاءُ بِكُلِّ
الْعُهُودِ وَالْإِلْتِزَامَاتِ الَّتِي تَلْتَزِمُهَا الدُّوَلُ الْإِسْلَامِيَّةُ عَمَلًا بِقَانُونِ الْوَفَاءِ
بِالْعَهْدِ الَّذِي قَرَّرَهُ الْقُرْآنُ الْكَرِيمُ، وَعَلَى ذَلِكَ لَا تُعَدُّ دِيَارُ الْمُخَالِفِينَ
الَّتِي تَنْتَوِي لِهَذِهِ الْمَوْسَسَةِ الْعَالَمِيَّةِ دَارَ حَرْبٍ ابْتِدَاءً، بَلْ تُعْتَبَرُ دَارَ
عَهْدٍ.

It is necessary to be aware of the fact that the whole world has been collected under a global system and all its members are under obligation to uphold its rule of law and observe its discipline in letter and spirit. The dictate

of Islam under this collective and unified system is that the covenants, agreements and restrictions to which the Islamic countries have committed themselves must be fulfilled. The implementation and execution of this law amounts to the fulfilment of the covenant that the Qur'ān has ordained us to implement, for which they have bound themselves with treaties and restrictions. Under these conditions, all non-Muslim countries that are members of the UN cannot be included among the Abodes of War. They rather fall into the category of the Abode of Treaty.¹

He has expressed this opinion in the light of the following verse of the Holy Qur'ān:

﴿إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْقُصُوكُمْ شَيْئًا وَلَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتِمُوا إِلَيْهِمْ عَهْدَهُمْ إِلَىٰ مُدَّتِهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ﴾

*«Except those idolaters with whom you made an agreement, who then did not show any latitude (in executing the treaty) and who did not support (or reinforce) anyone against you. So fulfil the treaty with them till the end of the term. Surely, Allah loves those who fear Him.»*²

Today, we have so deeply mired ourselves into ignorance that we have deformed our basic Islamic beliefs and are unable to recognize what the Qur'ān has ordered us to practise. We miserably lack Islamic knowledge. The great jurists do not feel any hesitation in calling a non-Muslim state an Abode of Islam on very insignificant conditions. Opposite to them are a small number of terrorists who, owing to a dearth of wisdom, intellect and insight into Islamic law, issue verdicts allowing bloodshed and terrorism in the same countries. If the Western countries like the US, Great Britain, France and others are declared Abodes of War instead of Abodes of Treaty or Abodes of Peace, it will become impermissible for the Muslims to live there anymore, and,

¹ •Abū Zuhra, *al-ʿAlāqāt al-duwaliyya fī al-Islām*, p. 60.

² Qur'ān 9:4.

under the Islamic Law (Shariah), they will have to migrate from these countries.

12.5 THE ABODE OF WAR (*DĀR AL- ARB*)

It is an exceptional case for a non-Muslim state to be an Abode of War. We have already explained that an Abode of War is the country that is at war with a Muslim state. Apart from that, all other countries are Abodes of Peace and Abodes of Treaty, through their international treaty of peace with the United Nations.

Describing the definition of the Abode of War by the Shāfi'ī school of thought, Sa'dī Abū abīb writes:

دَارُ الْحَرْبِ عِنْدَ الشَّافِعِيِّ: بِلَادُ الْكُفَّارِ الَّذِينَ لَا صُلْحَ لَهُمْ مَعَ
الْمُسْلِمِينَ.

The Abode of War, according to the Shāfi'ī jurists, refers to the non-Muslim countries that are not at peace with the Muslim (countries, but, are at war with them).¹

12.5.1 THE ISLAMIC RULING FOR THE NON-COMBATANTS

Islam does not allow the killing of the non-combatants even during war. It condemns the unjust killings under all circumstances.

Imam Muslim has reported on the authority of Abū Hurayra رضي الله عنه that, granting general asylum to the non-combatants, Allah's Messenger ﷺ said on the day of the conquest of Mecca:

مَنْ دَخَلَ دَارَ أَبِي سُفْيَانَ فَهُوَ آمِنٌ، وَمَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ
أَغْلَقَ بَابَهُ فَهُوَ آمِنٌ.

"He who enters the house of Abū Sufyān is safe; he who lays down his weapon is safe; and he who closes the doors of his house is also safe."²

¹ •Sa'dī Abū abīb, *al-Qāmūs al-fiqhī*, p. 84.

² Set forth by •Muslim in *al-Shahīḥ*, 3:1407 §1780. •Abū Dāwūd in *al-Sunan*, 3:162 §3021. •al-Bazzār in *al-Musnad*, 4:122 §1292.

12.5.2 THE QUR'ANIC INJUNCTION ON EXCELLENT MORALITY WITH NON-COMBATANTS

Great emphasis has been laid in the Qur'an and hadith on showing character towards non-combatants and treating them with piety and kindness. Allah has ordained in the Qur'an:

﴿لَا يَنْهٰكُمُ اللّٰهُ عَنِ الَّذِيْنَ لَمْ يُقَاتِلُوْكُمْ فِى الدِّيْنِ وَلَمْ يُخْرِجُوْكُمْ مِّنْ دِيَارِكُمْ اَنْ تَبَرُّوْهُمْ وَتُقْسِطُوْا اِلَيْهِمْ اِنَّ اللّٰهَ يُحِبُّ الْمُقْسِطِيْنَ ۝۸﴾
 اِنَّمَا يَنْهٰكُمُ اللّٰهُ عَنِ الَّذِيْنَ قَاتَلُوْكُمْ فِى الدِّيْنِ وَاَخْرَجُوْكُمْ مِّنْ دِيَارِكُمْ وَظَهَرُوْا عَلٰى اِخْرَاجِكُمْ اَنْ تَوَلَّوْهُمْ وَمَنْ يَتَوَلَّهُمْ فَاُولٰٓئِكَ هُمُ الظَّالِمُوْنَ ۝۹﴾

Allah does not forbid you to be good to them and treat them with equity and justice who did not fight against you on (the question of) Dīn (Religion), nor did they drive you out of your homes (i.e., homeland). Surely, Allah likes those who conduct themselves with equity and justice. Allah only forbids you to befriend those who fought against you on (account of) the Dīn (Religion) and drove you out of your homes (i.e., homeland) and aided (your enemies) in expelling you. And whoever makes friends with them, it is they who are the wrongdoers.¹

1. Ibn al-Jawzī (510–579 AH) has written in his commentary on the said verse:

قَالَ الْمُفَسِّرُونَ: هَذِهِ الْآيَةُ رُخْصَةٌ فِي صِلَةِ الَّذِيْنَ لَمْ يَنْصُبُوا الْحَرْبَ لِلْمُسْلِمِيْنَ وَجَوَّازُ بَرِّهِمْ وَإِنْ كَانَتْ الْمَوَالَاةُ مُنْقَطِعَةً مِنْهُمْ.

According to the exegetes, this holy verse of the Qur'an concedes us leave, excuse and justification to be gentle and nice towards those who are not involved in fighting against

¹ Qur'an 60:8–9.

the Muslims, even though they have already breached the alliance.¹

2. In his commentary on this verse, Imam al-Qurṭubī (284–380 AH) writes:

هَذِهِ الْآيَةُ رُخْصَةٌ مِنَ اللَّهِ تَعَالَى فِي صِلَةِ الَّذِينَ لَمْ يُعَادُوا الْمُؤْمِنِينَ وَلَمْ يُقَاتِلُوهُمْ.

This verse provides a concession to treat with excellence those who neither feel hostility nor wage combat against the Muslims.²

3. Ibn Kathīr writes while interpreting this verse:

أَيُّ لَا يَنْهَاكُمْ عَنِ الْإِحْسَانِ إِلَى الْكَفَرَةِ الَّذِينَ لَا يُقَاتِلُونَكُمْ فِي الدِّينِ وَلَمْ يُظَاهِرُوا أَيُّ يُعَاوَنُوا عَلَى إِخْرَاجِكُمْ كَالنِّسَاءِ وَالضَّعْفَةِ مِنْهُمْ.

Allah does not prohibit you from being good to those non-Muslims who do not fight against you because of your *Dīn* (Religion), nor do they help others in expelling your women and elderly persons from their country.³

12.5.3 THE AFFECTIONATE BEHAVIOUR OF MEDINA TOWARDS NON-COMBATANTS

To facilitate a better understanding of this subject, it is worthwhile to narrate an episode from the holy life of the exalted Messenger of Allah ﷺ. In the days when the Messenger of Allah ﷺ was the head of the state in Medina, Mecca was an Abode of Treaty. Through his munificence, largesse, mercy and benevolence, the Messenger of Allah ﷺ turned the callous breasts of the Meccans into loving hearts.

1. The famous historian al-Yaʿqūbī (d. 274 AH) writes:

¹ •Ibn al-Jawzī, *Zād al-masīr*, 8:237.

² •Al-Qurṭubī, *al-Jāmiʿ li aḥkām al-Qurʾān*, 18:59.

³ •Ibn Kathīr, *Tafsīr al-Qurʾān al-Aẓīm*, 4:350.

فَبَعَثَ إِلَيْهِمْ بِشَعِيرِ ذَهَبٍ وَقِيلَ نَوَى ذَهَبٍ مَعَ عَمْرِو بْنِ أُمَيَّةَ الضَّمْرِيِّ
وَأَمَرَهُ أَنْ يَدْفَعَهُ إِلَى أَبِي سُفْيَانَ بْنِ حَرْبٍ وَصَفْوَانَ بْنِ أُمَيَّةَ بْنِ خَلْفٍ
وَسَهْلٍ بْنِ عَمْرِو وَيُفَرِّقُهُ ثَلَاثًا ثَلَاثًا. فَأَمْتَنَعَ صَفْوَانُ بْنُ أُمَيَّةَ وَسَهْلُ بْنُ
عَمْرِو مِنْ أَخْذِهِ، وَأَخَذَهُ أَبُو سُفْيَانَ كُلَّهُ وَفَرَّقَهُ عَلَى فُقَرَاءِ قُرَيْشٍ.

The Prophet ﷺ sent them (the disbelievers of Mecca) lumps (pieces) of gold through ‘Amr b. Umayya al-Ḍamrī and ordered him to hand all of the wealth to Abū Sufyān b. ‘arb, Ṣafwān b. Umayya b. Khalf and Sahl b. ‘Amr, giving a one-third share to each. When Ṣafwān b. Umayya and Sahl b. ‘Amr refused to accept it, Abū Sufyān distributed the whole wealth amongst the indigent of the Quraysh.¹

2. The eminent authority, Imam Muhammad b. Aḥmad al-Sarakhsī, has narrated this event in these words:

بَعَثَ رَسُولُ اللَّهِ ﷺ خَمْسَ مِائَةِ دِينَارٍ إِلَى مَكَّةَ حِينَ قُحِطُوا، وَأَمَرَ بِدَفْعِ
ذَلِكَ إِلَى أَبِي سُفْيَانَ بْنِ حَرْبٍ وَصَفْوَانَ بْنِ أُمَيَّةَ؛ لِيُفَرِّقَا عَلَى فُقَرَاءِ أَهْلِ
مَكَّةَ. فَقَبِلَ ذَلِكَ أَبُو سُفْيَانَ، وَأَبَى صَفْوَانُ.

When Mecca was struck by drought, the Messenger of Allah sent 500 dinars to Mecca with the instruction to hand this wealth to Abū Sufyān b. ‘arb and Ṣafwān b. Umayya so that they both distribute it amongst the destitute of Mecca. Abū Sufyān accepted it while Ṣafwān refused.”²

Such was the conduct of Allah’s Messenger ﷺ, the first head of the first Islamic state, towards his sworn enemies. He helped the peaceful civilian population of non-Muslims financially and supported them in the time of drought.

¹ • Al-Yā‘qūbī, *al-Tārīkh*, 2:56.

² • Al-Sarakhsī, *Sharḥ Kitāb al-siyar al-kabīr*, 1:70.

12.5.4 THE STAND OF THE IMAMS AND HADITH-SCHOLARS ON NON-COMBATANTS

1. In his *Aḥkām ahl al-dhimma* (1:165), Ibn al-Qayyim al-ʿanbalī said about the conduct of the Prophet's Companions ﷺ towards non-combatants:

فَإِنَّ أَصْحَابَ النَّبِيِّ ﷺ لَمْ يَقْتُلُوهُمْ حِينَ فَتَحُوا الْبِلَادَ، وَلَا نَهَمُوا لَا يُقَاتِلُونَ، فَاشَبَّهُوا الشُّيُوخَ وَالرُّهْبَانَ.

Indeed, when the Prophet's Companions ﷺ conquered the various lands, they did not kill them [farmers and merchants], because they did not fight [against them], and so in that sense they [the civilians] resembled the elderly and the religious leaders.

2. Non-Muslim employees working in the households of non-Muslim employers in the conquered areas are not to be killed, and no kind of tax can be imposed upon them. This is the decree of the Shariah with regard to them. Ibn al-Qayyim stated the same thing, quoting ʿAbd Allāh b. ʿUmar ؓ:

إِنَّ الْعَبْدَ مُحَقُّونَ الدَّمِ فَاشَبَّهَ النِّسَاءَ وَالصِّبْيَانَ.

The blood of a servant is inviolable, and is thereby similar to that of women and children.¹

3. Imam al-Awzāʿī (88–157 AH) took a similar view about the non-combatants:

لَا يُقْتَلُ الْحَرَّاتُ إِذَا عَلِمَ أَنَّهُ لَيْسَ مِنَ الْمُقَاتِلَةِ.

Farmers are not to be killed [during war] if it is known that they are not from the combatants.²

4. In *al-Mughnī fī fiqh al-Imām Aḥmad b. ʿanbal al-Shaybānī*,

¹ •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:172–173.

² •Ibn Qudāma, *al-Mughnī*, 9:251. •Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:165.

Ibn Qudāma al-Maqdisī (d. 620 AH) wrote about the non-combatant farmers:

فَأَمَّا الْفَلَّاحُ الَّذِي لَا يُقَاتِلُ فَيَنْبَغِي أَنْ لَا يُقْتَلَ، لِمَا رُوِيَ عَنْ عُمَرَ بْنِ
الْخَطَّابِ رضي الله عنه أَنَّهُ قَالَ: اتَّقُوا اللَّهَ فِي الْفَلَاحِينَ، الَّذِينَ لَا يَنْصُبُونَ لَكُمْ فِي
الْحَرْبِ.

As for the farmer who is a non-combatant, he should not be killed, because it was narrated from ‘Umar b. al-Khaṭṭāb رضي الله عنه that he said, “Fear Allah regarding the farmers who do not wage war against you.”¹

When two countries are in a state of war, it is forbidden in Islam to slay peaceful and non-combatant civilians, let alone commit mass killings in peacetime while the victims are non-combatant peaceful citizens.

The teachings of the Qur’ān, hadith, and the practices and statements of the Companions رضي الله عنهم and the expositions and exegeses of the jurists and hadith scholars all vividly reveal that Islamic countries are permitted to fight only those people and forces in the Abode of War that are directly taking part in hostilities. According to Islamic teachings, non-combatants and civilians must remain safe and secure during war. At the present time, under the United Nations, all countries, including the United States of America and Great Britain, and even their citizens are regarded as Abodes of Treaty, Abodes of Peace and Abodes of Islam. However, if someone is directly at war with them, that is a separate case.

12.5.5 WHY MEDINA WAS CHOSEN FOR MIGRATION

Equipped with unsheathed swords, the disbelievers of Mecca besieged the Prophet’s inviolable abode. Under these conditions, the place selected for emigration was Yathrib, which was also an ancient abode of the People of the Book. At the first and the second allegiance at ‘Uqba, dozens of people received the opportunity to be in the blessed

¹ •Ibn Qudāma al-Maqdisī, *al-Mughnī*, 9:251. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §1738.

company of the Messenger of Allah. They were also the People of the Book belonging to the members of the 'Aws and Khazraj tribes of Medina.

The question is, what was the reason of their stimulation for such a quick acceptance of Islam and inclination towards faith in such a brief span of time? In fact, they had already read in the Bible and the Torah about the raising of the Final Messenger of Allah in their scripture. They were aware of the signs of his appearance. The seed of faith had already been planted in their hearts when they beheld him at Minā, and were bestowed the cognizance of the esteemed status and the great dignity of the Holy Prophet. They then worked for the mission of Islam in Medina as the representatives and supporters of Islam even though they had not witnessed the splitting of the moon like the disbelievers of Mecca did, nor did they witness the journey of Ascension and other great miracles. The people of the Book were blessed with a mindset compatible with Islam—the blessing that had not touched the Meccan disbelievers and polytheists. So the People of the Book started paving the way for the Messenger's arrival in Medina well before his migration. Moreover, those who became the "supporters" (*anṣār*) of the Meccan Companions too were formerly the People of the Book. It was as though they had the instinct and predilection of accepting Islam much more than others. For the same reason, the prospects of the acceptance of the prophethood of the Holy Prophet ﷺ were brighter in Medina as compared to Mecca under the rule of oppressive and tyrant disbelievers. That was the underlying reason why Medina was selected as an abode of emigration.

12.5.6 THE DIFFERENCE OF PACE AND NUMBER BETWEEN THE MECCAN AND MEDINAN PEOPLE IN ACCEPTING ISLAM

In Mecca, the Prophet spent forty years before and thirteen years after the commissioning of his prophethood. In a long span of fifty-three years, an over three hundred people embraced faith, besides the advent of several mighty miracles of the Prophet during this period. Contrarily, about 10,000 Muslims of Medina accompanied the Holy Prophet in the 8th year of migration to conquer Mecca. This manifests

how quickly and in what great numbers the people in Medina professed faith as compared to the idolaters and disbelievers of Mecca. The basic reason for this wide difference was that the Meccans were totally opposed to the concept of faith in the Oneness of God. Originally, they also denied prophethood, messengership, revelation, and the divine teachings.

The People of the Book, however, were at an advantage because they were well acquainted with all these concepts and teachings and were inclined to faith. The only stumbling block in the way of faith for them was that the Prophet was raised in Banī Ismā'īl instead of Banī Israel, even though they had settled in the city of date-palms, Medina, centuries before, only for the reason that, according to their Scripture, the Final Messenger of Allah ﷺ was to appear there. Many of their generations had passed, waiting for the arrival of the Holy Prophet. They were not originally opposed to faith; rather, they were waiting for it. Nevertheless, most of them felt jealous, became malicious, and deviated to disbelief when they saw that the Final Messenger whom they were waiting for a long time hailed from Banī Ismā'īl, yet several of those with a sound temperament became the believers.

12.6 THE PROPHET ﷺ INTEGRATED THE JEWS AND THE MUSLIMS INTO A COLLECTIVE UNITY THROUGH THE PACT OF MEDINA

The pact of Medina, which the Holy Prophet ﷺ concluded with the non-Muslims after migrating to Medina, is another historical step towards peace making. In drawing up this constitution, the People of the Book were mutual partners with the Muslims. The text of the pact of Medina has been narrated by all the imams who wrote on the Prophet's biography and history. Many of them have reported the text fully or partially. The document has reached us through Imam Ibn Shihāb al-Zuhrī, who reported through the following authorities:

Imam Ibn Ishāq in *al-Sīra*, Imam Abū 'Ubayd al-Qāsim b. Sallām and Imam Ḥumayd b. Zanjawayh in *Kitāb al-Amwāl*, Ibn Hishām in *al-Sīra*, al-Suhaylī in *al-Rawḍ al-Unf*, Ibn Sayyid al-Nās in *'Ayūn al-Athar*, Hāfiẓ Ibn Kathīr in *al-Bidāya wa al-Nihāya*, al-Nawayrī in *al-Nihāya*, Ibn al-Athīr al-Jazarī in *al-Nihāya*, Imam Maṣṣūr b.

al- asan in *Nathar al-Durar*, al-Sāghānī in *al-ʿAbāb*, Ibn Taymiya in *al-Ṣarīm al-Maslūl*, Ibn al-Qayyim in *Aḥkām ahl al-Dhimma*, Imam al-Bayhaqī in *al-Sunan al-Kubrā*, Imam al-Zarqānī in *Sharḥ al-Mawāhib al-Laduniyya*, and others.

Here are the opening words of the pact of Medina:

هَذَا كِتَابُ رَسُولِ اللَّهِ ﷺ بَيْنَ الْمُؤْمِنِينَ وَأَهْلِ يَثْرِبَ وَمَوَادِعَتِهِ يَوْمَئِذٍهَا،
مَقْدَمُهُ الْمَدِينَةُ... أَنَّ رَسُولَ اللَّهِ ﷺ كَتَبَ بِهَذَا الْكِتَابِ: هَذَا كِتَابٌ مِنْ
مُحَمَّدِ النَّبِيِّ رَسُولِ اللَّهِ ﷺ، بَيْنَ الْمُؤْمِنِينَ وَالْمُسْلِمِينَ مِنْ قُرَيْشٍ وَأَهْلِ
يَثْرِبَ، وَمَنْ تَبِعَهُمْ فَلَحِقَ بِهِمْ، فَحَلَّ مَعَهُمْ، وَجَاهَدَ مَعَهُمْ، إِنَّهُمْ أُمَّةٌ
وَاحِدَةٌ مِنْ دُونِ النَّاسِ.

"This is a constitutional agreement after the arrival of the Messenger of Allah to Medina between the believers who migrated from Mecca and the people of Yathrib, and the Jews have been made a party to this reconciliatory agreement. . . This is a written constitution given by the Messenger and the Prophet of Allah. This shall be governing the relations between the Muslims of Quraysh, the people of Yathrib (the citizens of Medina) and those who shall follow them and become attached to them (politically) and fight along with them to defend the state of Medina. The aforementioned communities shall formulate one Constitutional Unity *i.e.*, *Umma* as distinct from (other) people."¹

Imam Ibn Ishāq has also reported the opening text in these words:

كَتَبَ رَسُولُ اللَّهِ ﷺ كِتَابًا بَيْنَ الْمُهَاجِرِينَ وَالْأَنْصَارِ، وَادَعَ فِيهِ يَوْمَئِذٍ
وَعَاهَدَهُمْ، وَأَقْرَهُهُمْ عَلَى دِينِهِمْ وَأَمْوَالِهِمْ، وَشَرَطَ لَهُمْ، وَاشْتَرَطَ
عَلَيْهِمْ.

¹ Cited by •Ḥumayd b. Zanjawayh in *Kitāb al-Amwāl*, 1:393. •Abū ʿUbayd al-Qāsim b. Sallām in *Kitāb al-Amwāl*, 1:393. •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:497. •Ibn Kathīr in *al-Bidāya wa al-nihāya*, 3:224.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ، هَذَا كِتَابٌ مِنْ مُحَمَّدٍ النَّبِيِّ بَيْنَ الْمُؤْمِنِينَ
وَالْمُسْلِمِينَ مِنْ قُرَيْشٍ وَيَثْرِبَ، وَمَنْ تَبِعَهُمْ فَلَحِقَ بِهِمْ وَجَاهَدَ مَعَهُمْ.
إِنَّهُمْ أُمَّةٌ وَاحِدَةٌ مِنْ دُونِ النَّاسِ.

“The Messenger of Allah inscribed an agreement between the emigrants and the supporters and made the Jews a party to this reconciliatory agreement and maintained their religious and economic freedom, accepting some of their conditions and making them accept certain conditions.

In the name of Allah, Most Compassionate Ever-Merciful. This is a written constitution given by the Prophet Muhammad. It is between the Muslims of Quraysh, the people of Yathrib (the citizens of Medina) and those who shall follow them (politically) and fight along with them (to defend the state of Medina). They all are one Constitutional Community *i.e.*, *Umma* as distinct from (other) people.”¹

From the beginning of this constitution, the Messenger of Allah made the Jews a party to this agreement between the Muslims of Quraysh and the Muslims of Yathrib. They became the allies of the Muslims. They had signed the pact to defend Medina in the event of war along with the Muslims. The Prophet constituted one community or one nation comprising the emigrants, the supporters of Medina and the Jews, declaring:

إِنَّهُمْ أُمَّةٌ وَاحِدَةٌ مِنْ دُونِ النَّاسِ.

“They are all one *Umma* distinct from (other) people.”

He then enumerated all the tribes who were a party to this agreement and declared their freedom to practise their own religion, customs and traditions. In this connection, the next part of the Holy Prophet’s document is noticeable:

¹ Cited by •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:497. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:106. •Ibn Kathīr in *al-Bidāya wa al-nihāya*, 3:224.

١. أَلْمُهَاجِرُونَ مِنْ قُرَيْشٍ عَلَى رِبَاعَتِهِمْ، يَتَعَاقِلُونَ بَيْنَهُمْ مَعَاقِلَهُمُ الْأُولَى، وَهُمْ يَفْدُونَ عَانِيَهُمْ بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٢. وَبَنُو عَوْفٍ عَلَى رِبَاعَتِهِمْ، يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٣. وَبَنُو الْخَزَرَجِ عَلَى رِبَاعَتِهِمْ يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ مِنْهُمْ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٤. وَبَنُو سَاعِدَةَ عَلَى رِبَاعَتِهِمْ، يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ مِنْهُمْ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٥. وَبَنُو جُشَمٍ عَلَى رِبَاعَتِهِمْ، يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ مِنْهُمْ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٦. وَبَنُو النَّجَارِ عَلَى رِبَاعَتِهِمْ يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ مِنْهُمْ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٧. وَبَنُو عَمْرِو بْنِ عَوْفٍ عَلَى رِبَاعَتِهِمْ يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٨. وَبَنُو النَّسِيبِ عَلَى رِبَاعَتِهِمْ يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ مِنْهُمْ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.
٩. وَبَنُو أَوْسٍ عَلَى رِبَاعَتِهِمْ يَتَعَاقِلُونَ مَعَاقِلَهُمُ الْأُولَى، وَكُلُّ طَائِفَةٍ مِنْهُمْ تَفْدِي عَانِيَهَا بِالْمَعْرُوفِ وَالْقِسْطِ بَيْنَ الْمُؤْمِنِينَ.

i. The emigrants from Quraysh shall be responsible for their ward and they shall, according to their approved practice, jointly pay the blood money in mutual collaboration,

and shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.

2. And the emigrants from Banū 'Awf shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.
3. And the emigrants from Banū al-Khazraj shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.
4. And the emigrants from Banū Sā'ida shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.
5. And the emigrants from Banū Jusham shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.
6. And the emigrants from Banū al-Najjār shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.
7. And the emigrants from Banū 'Amr b. 'Awf shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in

mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.

8. And the emigrants from Banū al-Nabīṭ shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.
9. And the emigrants from Banū Aws shall be responsible for their ward and they shall, according to their formal approved practice, jointly pay the bloodmoney in mutual collaboration and every group shall secure the release of their prisoners by paying the ransom with righteousness and justice between the believers.¹

12.6.1 THE PROPHETIC PRONOUNCEMENT: "THE JEWS TOGETHER WITH THE MUSLIMS ARE ONE NATION"

Creating a single *Umma* by joining the Jews with the Muslims has been clearly mentioned on another occasion in the document. The words in the document dictated by the Holy Prophet ﷺ are noticeable:

إِنَّ يَهُودَ بَنِي عَوْفٍ أُمَّةٌ مَعَ الْمُؤْمِنِينَ، لِلْيَهُودِ دِينُهُمْ وَلِلْمُسْلِمِينَ دِينُهُمْ،
مَوَالِيَهُمْ وَأَنْفُسُهُمْ.

"Certainly, the Jews of Banū 'Awf (non-Muslim minorities) shall be considered a community along with the believers. However, the Jews will follow their own religion and the Muslims will practise their own *Dīn*. As for the *Umma*, both will be a part of it and their supporters too."²

¹ Cited by •Ḥumayd b. Zanjawayh in *Kitāb al-amwāl*, 1:394. •Abū 'Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, 1:394. •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:497–498. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:106. •Ibn Kathīr in *al-Bidāya wa al-nihāya*, 3:224–225.

² Cited by •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:499. •Ḥumayd b. Zanjawayh in *Kitāb al-amwāl*, 1:394. •Ibn Kathīr in *al-Bidāya wa al-nihāya*,

It has been elucidated here that both groups will follow and practise their respective religions freely. However, there is nothing that keeps them from becoming a single community. Becoming an *Umma* this way does not adversely affect the individual identity of either the Muslims or the Jews. Nor do their distinctive religious identities come in their way to becoming a collective body or a single community.

This Prophetic command does not in any way affect the concept of the Muslim *Umma* because when the Muslims were declared one *Umma*, that had religious, legal and communal implications. However, when the Jews together with the Muslims were declared a single *Umma*, that had political, social, defensive and collective connotations. This generates the concept of a constitutional nationality and citizenship. On the basis of this, the Holy Prophet laid the foundation of a multicultural society, which became a model for present-day interfaith tolerance and peaceful co-existence. The classical books and sources have also quoted the words “community of the believers” instead of “community with the believers”. It has been quoted like this:

إِنَّ يَهُودَ بَنِي عَوْفٍ وَمَوَالِيَهُمْ وَأَنْفُسَهُمْ أُمَّةٌ مِنَ الْمُؤْمِنِينَ، لِلْيَهُودِ دِينُهُمْ،
وَلِلْمُؤْمِنِينَ دِينُهُمْ.

“Verily, all the Jews of Banū ‘Awf (non-Muslim minorities) and their supporters shall be considered a part of the community of believers. However, they will practice their own religion and the Muslims will follow their *Dīn*.”¹

12.6.2 THE IMPLICATIONS OF “THE JEWS OF BANŪ ‘AWF WILL BE A PART OF THE MUSLIM COMMUNITY”

The imams who have reported the words *Ummatan min al-Mu’minīn* (part of the Muslim community) include Imam Abū ‘Ubayd al-Qāsim b. Sallām, Imam Ḥumayd b. Zanjawayh, Imam Maṣṣūr b. al-Ḥusayn al-Ābī, Imam Ibn al-Athīr al-Jazarī, and Imam Muhammad b. Yūsuf

3:225.

¹ Cited by •Abū ‘Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, p. 263.
•Maḥmūd b. ‘Umar al-Zamakhsharī in *al-Fā’iq fī gharīb al-ḥadīth wa al-āthār*, 2:25.

al-Ṣāliḥī al-Shāmī and others.

This text connotes that despite having separate religions, Muslims and Jews have become the members of the same *Umma* by this reconciliatory agreement. Thus, they will guard, protect, and support each other like members of the same community. Their alliance, therefore, has united them as the member of a single community.

Let us now delve into how the imams of hadith have interpreted the words reported in the hadith.

12.6.2.1 IMAM IBN AL-ATHĪR AL-JAZARĪ

In this series, we first take the interpretation of Imam Ibn al-Athīr al-Jazarī.

He writes in his famous book *al-Nihāya fī gharīb al-ḥadīth wa al-athar*,

وَفِيهِ: إِنَّ يَهُودَ بَنِي عَوْفٍ أُمَّةٌ مِنَ الْمُؤْمِنِينَ. يُرِيدُ: أَنَّهُمْ بِالصُّلْحِ الَّذِي
وَقَعَ بَيْنَهُمْ، وَبَيْنَ الْمُؤْمِنِينَ كَجَمَاعَةٍ مِنْهُمْ، كَلِمَتُهُمْ وَأَيْدِيهِمْ وَاحِدَةٌ.

“Certainly, the Jews of Banū ‘Awf are included in the community of believers”—indicate that the status of the Jews determined by the agreement is that they are like the part of the believers’ community. The words and the deeds of both of them will be considered as one.”¹

It means that if one group of them promises to some other community or tribe, the other group will also be equally responsible to keep that promise as if he has promised himself. Likewise, if one group provides someone shelter, the other will be equally bound and will honour it as if he has been responsible for providing the shelter. If some action has been taken against any one of them, it will be considered an action against their own community. Similarly, their support and opposition will be considered the one. In short, the Jews and the Muslims will be considered the members of the same community.

Imam Ibn al-Athīr has gone into further details when commenting

¹ Cited by •Ibn al-Athīr in *al-Nihāya fī gharīb al-ḥadīth wa al-athar*, chapter of *al-hamza* with *mīm*, 1:77.

on this report in his book, *Manāl al-Ṭālib fī Sharḥ Ṭiwāl al-Gharā'ib*:

قَوْلُهُ: وَإِنَّ يَهُودَ بَنِي عَوْفٍ أُمَّةٌ مِنَ الْمُؤْمِنِينَ. يُرِيدُ: أَنَّهُمْ بِالصُّلْحِ الَّذِي
وَقَعَ بَيْنَهُمْ وَبَيْنَ الْمُؤْمِنِينَ، فَصَارَتْ أَيْدِيهِمْ وَأَيْدِي مَوَالِيهِمْ مَعَ الْمُؤْمِنِينَ
وَاحِدَةً عَلَى عَدُوِّ الْمُؤْمِنِينَ، كَأُمَّةٍ مِنَ الْمُؤْمِنِينَ، إِلَّا أَنَّ لَهُوَلَاءَ دِينُهُمْ،
وَلَهُوَلَاءَ دِينُهُمْ، إِلَّا مَنْ ظَلَمَ وَأَثِمَ بِنَقْضِ الْعَهْدِ وَالنَّكَثِ.

“The Prophetic command—‘certainly, the Jews of Banū ‘Awf are included in the community of believers’—means that as a result of the covenant between the Jews and the Muslims, the members and supporters of both the groups and their power and strength have become a united force against the Muslims’ enemies (the Meccan infidels), and due to this relation of unity, the Jews will also be taken as part of the Muslim community, except that the Muslims will follow their religion and the Jews will practise theirs, unless any of the parties violates the agreement and perpetrates tyranny and oppression.”¹

12.6.2.2 INTERPRETATION BY AL-ZAMAKHSHARĪ

According to al-Zamakhsharī:

يَهُودُ بَنِي عَوْفٍ بِسَبَبِ الصُّلْحِ الْوَاقِعِ بَيْنَهُمْ وَبَيْنَ الْمُؤْمِنِينَ كَأُمَّةٍ مِنْهُمْ فِي
أَنَّ كَلِمَتَهُمْ وَاحِدَةٌ عَلَى عَدُوِّهِمْ. فَأَمَّا الدِّينُ فَكُلُّ فِرْقَةٍ مِنْهُمْ عَلَى حِيَالِهَا
إِلَّا مَنْ ظَلَمَ بِنَقْضِ الْعَهْدِ.

“As a result of the agreement between the Muslims and the Jews, the Jews of Banū ‘Awf have become like part of the same community. The words and agreements of both these groups have now become the same against their enemies. As for religion, both will adhere to their respective faiths, except

¹ •Ibn al-Athīr, *Manāl al-ṭālib fī Sharḥ Ṭiwāl al-gharā'ib*, ḥadīth, the book of Quraysh and al-Anṣār, 1:183.

the ones who wrong by violating the agreement.”¹

12.6.2.3 INTERPRETATION BY IBN ABĪ ‘UBAYD AL-HARAWĪ

Imam Ibn Abī ‘Ubayd al-Harawī described these connotations first in his book *al-Gharibayn fī al-Qur’ān wa al- adīth*, as follows:

وَفِيهِ: إِنَّ يَهُودَ بَنِي عَوْفٍ أُمَّةٌ مِنَ الْمُؤْمِنِينَ. يُرِيدُ: أَنَّهُمْ بِالصُّلْحِ الَّذِي وَقَعَ بَيْنَهُمْ، وَبَيْنَ الْمُؤْمِنِينَ كَأُمَّةٍ مِنَ الْمُؤْمِنِينَ، كَلِمَتُهُمْ وَأَيْدِيهِمْ وَاحِدَةٌ.

“Certainly, the Jews of Banū ‘Awf are included in the community of believers’ means that the agreement that has been concluded between the Muslims and the Jews implies that the Jews have been made part of the Muslim community. Their words and deeds will now be regarded as one.”²

12.7 FIVE OTHER JEWISH TRIBES WERE ALSO INCLUDED IN ONE COMMUNITY ALONG WITH MUSLIMS

Later, like Banū ‘Awf, the Prophet included five other Jewish tribes in one community along with the Muslims. Each one of these tribes was given the same status that was previously owned by Banū ‘Awf. Then their allies too were made part of it in the same way. Moreover, rules were also formulated to govern mutual help and cooperation of betterment as is expected from the members of the same community.

Here are these extensions:

- وَإِنَّ يَهُودَ بَنِي النَّجَّارِ مِثْلَ مَا لِيَهُودَ بَنِي عَوْفٍ.
- وَإِنَّ يَهُودَ بَنِي الْحَارِثِ مِثْلَ مَا لِيَهُودَ بَنِي عَوْفٍ.

¹ •Al-Zamakhsharī, *al-Fā’iq fī gharīb al-ḥadīth wa al-athar*, 2:26.

² •Al-Harawī, *al-Gharibayn fī al-Qur’ān wa al-ḥadīth*, chapter of *al-ḥamza* with *al-mīm*, 1:107.

- وَإِنَّ لِيَهُودَ بَنِي جُشَمٍ مِثْلَ مَا لِيَهُودَ بَنِي عَوْفٍ.
- وَإِنَّ لِيَهُودَ بَنِي سَاعِدَةَ مَا لِيَهُودَ بَنِي عَوْفٍ.
- وَإِنَّ لِيَهُودَ الْأَوْسِ مِثْلَ ذَلِكَ، إِلَّا مَنْ ظَلَمَ، فَإِنَّهُ لَا يُوتَغُ إِلَّا نَفْسَهُ وَأَهْلَ بَيْتِهِ. وَأَنَّهُ لَا يَخْرُجُ أَحَدٌ مِنْهُمْ إِلَّا بِإِذْنِ مُحَمَّدٍ ﷺ.
- عَلَى الْيَهُودِ نَفَقَتُهُمْ، وَعَلَى الْمُسْلِمِينَ نَفَقَتُهُمْ.
- وَأَنَّ بَيْنَهُمُ النَّصْرَ عَلَى مَنْ حَارَبَ أَهْلَ هَذِهِ الصَّحِيفَةِ. وَأَنَّ بَيْنَهُمُ النَّصْحَ وَالنَّصِيحَةَ وَالنَّصْرَ لِلْمَظْلُومِ.
- وَأَنَّ الْمَدِينَةَ جَوْفُهَا حَرَمٌ لِأَهْلِ هَذِهِ الصَّحِيفَةِ.
- وَأَنَّ بَيْنَهُمُ النَّصْرَ عَلَى مَنْ دَهَمَ يَثْرَبَ.
- وَأَتَمُّهُمْ إِذَا دَعَوْا الْيَهُودَ إِلَى صُلْحٍ حَلِيفٍ لَهُمْ بِالْأُسُورَةِ، فَإِنَّهُمْ يُصَالِحُونَهُ. وَإِنْ دَعَوْنَا إِلَى مِثْلِ ذَلِكَ، فَإِنَّهُ لَهُمْ عَلَى الْمُؤْمِنِينَ إِلَّا مَنْ حَارَبَ الدِّينَ.
- وَأَنَّ يَهُودَ الْأَوْسِ وَمَوَالِيَهُمْ وَأَنْفُسِهِمْ مَعَ الْبَرِّ الْمُحْسِنِ مِنْهُمْ، مِنْ أَهْلِ هَذِهِ الصَّحِيفَةِ.
- وَأَنَّهُ الْبَرُّ دُونَ الْإِثْمِ، وَلَا يَكْسِبُ كَاسِبٌ إِلَّا عَلَى نَفْسِهِ.
- وَإِنْ أَوْلَاهُمْ بِهَذِهِ الصَّحِيفَةِ الْبَرُّ الْمُحْسِنُ.

- The Jews of Banū al-Najjār shall enjoy the same rights as granted to the Jews of Banū 'Awf.
- The Jews of Banū al- āarith shall also enjoy the same rights as granted to the Jews of Banū 'Awf.
- The Jews of Banū Jusham shall also enjoy the same rights

as granted to the Jews of Banū 'Awf.

- The Jews of Banū Sa'ida shall also enjoy the same rights as granted to the Jews of Banū 'Awf.
- The Jews of Banū Aws shall also enjoy the same rights as granted to the Jews of Banū 'Awf. But he who wrongs will, no doubt, put himself and his family in trouble. No one shall exit the agreement without permission from the (Prophet) Muhammad (blessings and peace be upon him).
- The Jews will be responsible for their maintenance and the Muslims will be responsible for theirs.
- There shall be mutual help between one another against those who engage in war with the allies of this document. There shall be mutual consultation, well-wishing and sincerity over breaching the treaty, and help for the wronged shall be mandatory.
- And the valley of Medina (the plateau surrounded by hills) will be a sanctuary (an abode of peace) for the signatories of this agreement (i.e. fighting among each other here will be forbidden).
- The Muslims and the Jews shall be jointly responsible to defend (the state of) Medina against any outside attack.
- It shall be incumbent upon the Jews to observe and adhere to any peace treaty they are invited to participate in by any of their allies. Likewise, it shall also be incumbent upon the Muslims to observe and adhere to any peace treaty they are invited to. However, a person who fights against the religion of Islam has no right on believers.
- And the Jews of the Aws tribe whether allies or native citizens will enjoy the same rights that have been awarded to the holders of this constitution, and they will extend faithful conduct to the people of the constitution.
- Faithfulness and sincerity will prevail over breaching the treaty. Everyone will be responsible for his doings.
- The pious and the benevolent will be the beneficiary of this agreement.¹

¹ Cited by •Humayd b. Zanjawayh in *Kitāb al-amwāl*, 1:395. •Ibn Hishām in

By comparing this pact with the pact of udaybiya that was concluded between the Muslims and the disbelievers of Mecca in the 6th year of migration, we can vividly see that its themes, style, conditions and text are altogether different from the agreement that was concluded with the Jews of Medina. The nature of both the agreements is different from the beginning to the end. The pact of udaybiya contains conditions to maintain truce and peace for ten years. Apart from that, the agreement is void of any overtures of mutuality and cooperation among the two groups. As for the charter of Medina, it has altogether a different set of objectives and matters of mutual interest with the People of the Book that we have already surveyed.

12.8 ABYSSINIA—THE MODEL ABODE OF PEACE

The disbelievers of Mecca impeded the propagation of Islam and made the lives of the Muslims hard and miserable. They intensified their persecutions against the Prophet and his followers. Even influential men who now followed the Prophet were not spared. They were boycotted and several of them were restrained in their own homes. Many of the Muslims with little or no influence were tortured publicly and repeatedly. When the pagan Meccans' hostility against the Muslims became unbearably brutal, the Prophet commanded a group of them, including Uthmān b. 'Affān and the Holy Prophet's beloved daughter Ruqayya, to migrate to Abyssinia, even though he knew that Abyssinia was a Christian country and its ruler, the Negus, too was a Christian. Since the repute of the King Negus reached the Prophet as a just and kind ruler, he selected this Christian country for the first and second migration.

The Qur'ān has honoured this decision of the Holy Prophet as the corroboration of Almighty Allah's commandment and declared Abyssinia as the best abode for the Muslims. The Qur'ān's declaration about Abyssinia as the safest country for the Companions of the

al-Sīra al-Nabawiyya, 1:331, 2:499–500. • Abū 'Ubayd al-Qāsim b. Sallām in *Kitāb al-amwāl*, 1:224. • al-Ṭabarī, *Tārīkh al-umam wa al-mulūk*, 1:547. • al-Zamakhsharī in *al-Fā'iḳ fī gharīb al-ḥadīth wa al-āthār*, 2:25. • al-Dhahabī, *Tārīkh al-Islām*, 1:184. • Ibn Kathīr, *al-Bidāya wa al-nihāya*, 3:66. • al-'Aynī, *Umda al-qārī*, 7:268.

Prophet has been elaborately interpreted in the subsequent pages.

The disbelievers and idolaters of Mecca were at war with the Muslims. They inflicted atrocities on them and subjected them to extreme form of terrorism and brutality. The Prophet's command to his Companions to migrate to a Christian kingdom portends the difference between the tyranny the disbelievers meted out to the Muslims and the security and the observance of human rights the People of the Book extended to them under the King Negus of Abyssinia. There the Muslims were received well and allowed to practice their religion and live in peace. The Prophet reciprocated this harmony and hospitality towards them as Abyssinia proved to be a model abode of peace for the Muslims.

12.9 THE DIFFERENCE BETWEEN THE CHRISTIAN RULE OF ABYSSINIA AND THE MECCAN RULE

Here are some of its salient features:

- a. Many of the People of the Book were pious believers

The Qur'ān provides ample evidence about the piety and true faith of the People of the Book. It has been revealed in *sūra al-A'rāf*:

﴿وَمِنْ قَوْمِ مُوسَى أُمَّةٌ يَهْدُونَ بِالْحَقِّ وَبِهِ يَعْدِلُونَ﴾

And a party amongst the people of Mūsā ([Moses] comprises those) who guide to the path of truth and according to that (make judgments based on) justice.﴾¹

﴿وَإِنَّ مِنْ أَهْلِ الْكِتَابِ لَمَنْ يُؤْمِنُ بِاللَّهِ وَمَا أُنْزِلَ إِلَيْكُمْ وَمَا أُنْزِلَ إِلَيْهِمْ خَلِيعِينَ لِلَّهِ لَا يَشْتَرُونَ بِآيَاتِ اللَّهِ ثَمَنًا قَلِيلًا أُولَٰئِكَ لَهُمْ أَجْرُهُمْ عِنْدَ رَبِّهِمْ إِنَّ اللَّهَ سَرِيعُ الْحِسَابِ﴾

And indeed, some People of the Book are such that they believe in Allāh, and also (have faith in) the Book that has been revealed to you, and the one which was sent down to them. Their hearts remain subdued before Allāh. And they

¹ Qur'ān 7:159.

do not receive a paltry price for the Revelations of Allāh. They are the ones whose reward lies with their Lord. Indeed, Allāh is Swift at reckoning. ﴿¹

b. As for love, the Christians are closer to the Muslims

﴿لَتَجِدَنَّ أَشَدَّ النَّاسِ عَدُوًّا لِلَّذِينَ ءَامَنُوا الْيَهُودَ وَالَّذِينَ أَشْرَكُوا وَلَتَجِدَنَّ أَقْرَبَهُمْ مَوَدَّةً لِلَّذِينَ ءَامَنُوا الَّذِينَ قَالُوا إِنَّا نَصْرِيَّ ذَلِكَ بِأَنَّهُمْ قِسِيَّيْنِ وَرُحَبَاءَانَا وَأَنَّهُمْ لَا يَسْتَكْبِرُونَ﴾

‘You will indeed find the Jews and the polytheists the bitterest of people in their enmity against the Muslims, and the closest in love and affection for the Muslims you will find those who say: ‘Indeed, we are Nazarenes (Christians).’ This is because amongst them are savants (i.e., scholars of Shariah) as well as monks (i.e., ascetic worshippers) and (moreover) they are not given to arrogance.’ ﴿²

Such wonderful remarks in the Qur’ān about the Christians have never been made with regard to the disbelievers and polytheists even during the periods of reconciliation, armistice and truce. The reason given for this close affinity has been nothing but the presence of the people of Shariah and the spirituality among them. Also among the Muslims, a similar division exists from the days of the Companions and the pious predecessors to the later eras of scholars, luminaries and jurists. There are many things in common between the two communities, even if the means and methods of both of them differ widely with respect to commands and legal issues. The verses quoted above contain a significant segment that relates to the Christians:

﴿وَلَتَجِدَنَّ أَقْرَبَهُمْ مَوَدَّةً لِلَّذِينَ ءَامَنُوا الَّذِينَ قَالُوا إِنَّا نَصْرِيَّ﴾

‘[A]nd the closest in love and affection for the Muslims you will find those who say: ‘Indeed, we are Nazarenes

¹ Ibid 3:199.

² Ibid 5:82.

(Christians).’¹

c. The Qur’ān declared Abyssinia the safest country for the Companions.

With regard to Abyssinia, the Qur’ān has revealed.

﴿وَالَّذِينَ هَاجَرُوا فِي اللَّهِ مِنْ بَعْدِ مَا ظَلَمُوا لَنُبَوِّئَنَّهُمْ فِي الدُّنْيَا حَسَنَةً
وَلَلْآخِرَةُ أَكْبَرُ لَوْ كَانُوا يَعْلَمُونَ﴾

«And those who emigrated after they had been subjected to (different kinds of) torture and brutality, We will certainly provide them with a better abode in this (very) world. And the reward in the Hereafter is certainly greater. Would that they knew (this secret)!»¹

Imam al-Qurṭubī has interpreted this verse in his exegeses, *al-Jāmi‘ li aḥkām al-Qur’ān*:

وَقَالَ قَتَادَةُ: الْمُرَادُ أَصْحَابُ مُحَمَّدٍ ﷺ، ظَلَمَهُمُ الْمُشْرِكُونَ بِمَكَّةَ
وَأَخْرَجُوهُمْ حَتَّى لَحِقَ طَائِفَةٌ مِنْهُمْ بِالْحَبَشَةِ. ثُمَّ بَوَّاهُمُ اللَّهُ تَعَالَى دَارَ
الْهِجْرَةِ، وَجَعَلَ لَهُمْ أَنْصَارًا مِنَ الْمُؤْمِنِينَ.

“According to Qatāda, this verse alludes to those Companions whom the Meccan disbelievers subjected to tyranny and ostracized, until one of their groups left for Abyssinia. Thereafter, Allah blessed them with a safe haven in the abode of migration (i.e., Medina) and produced their helpers from amongst the believers.”²

Both Imam Ibn Abī Hātim al-Rāzī and Imaḥ Ibn Jarīr al-Ṭabarī agree that here “the best abode” implies emigration to Abyssinia and, later, to Medina³ and both these abodes allude to the words, “We will

¹ Ibid 16:41.

² •Al-Qurṭubī, *al-Jāmi‘ li aḥkām al-Qur’ān*, 10:107.

³ •Ibn Abī Hātim al-Rāzī, *Tafsīr al-Qur’ān al-‘Azīm*, 7:2284 §21518. •al-Ṭabarī, *Jāmi‘ al-Bayān fī Tafsīr al-Qur’ān*, 14:107.

certainly provide them with a better abode in this (very) world”, in the Qur’ānic verse.

After mentioning emigration to both these places, Imam Makkī b. Abī Ṭālib al-Muqrī writes in *al-Hidāya ilā Bulūgh al-Nihāya* about this verse:

“This verse does not refer to emigration to Medina but signifies emigration to Abyssinia, because this verse was revealed in Mecca on the occasion of emigration to Abyssinia.”¹

Imam Ibn ‘Atiyya has further explained it in *al-Muḥarrar*:

وَهُمُ الَّذِينَ هَاجَرُوا إِلَى أَرْضِ الْحَبَشَةِ. هَذَا قَوْلُ الْجُمْهُورِ، وَهُوَ الصَّحِيحُ
فِي سَبَبِ هَذِهِ الْآيَةِ، لِأَنَّ هِجْرَةَ الْمَدِينَةِ لَمْ تَكُنْ وَقْتُ نَزُولِ الْآيَةِ.

“And (the verse under reference signifies) the people who immigrated to Abyssinia. That is the saying of the majority and this is what is congruous to the occasion of its revelation, because, chronologically, its revelation precedes the emigration to Medina.”²

Imam Abū ‘ayān too has concurred in *al-Baḥr al-muḥīt* that this verse refers to the emigration to Abyssinia because the Muslims of Mecca had not yet moved to Medina when this verse was revealed.³

After migration, events occurred to the Muslims in Abyssinia that portray how the Negus, the Christian King of Ethiopia, supported the Companions of the Holy Prophet despite the opposition of Quraysh of Mecca. The Holy Prophet’s view about the Ethiopian king proved a reality. The Christian king not only protected the Muslims, but a spring of love also sprouted from his heart for the Prophet of Islam and his Companions. Almighty Allah provided a peaceful abode to the Muslims whom the tyrannous Meccans had harried and displaced, fomenting crucibles and shedding their blood. Allah Most Exalted bestowed upon the Muslims a blessing in the form of their host—the ruler of Abyssinia, King Negus. Then the Muslims emigrated twice

¹ •Makkī b. Abī Ṭālib al-Muqrī, *al-Hidāya ilā bulūgh al-nihāya*, 6:3996.

² •Ibn ‘Atiyya, *al-Muḥarrar al-wajīz fī tafsīr al-kitāb al-‘azīz*, 3:394.

³ •Abū ‘ayān, *al-Baḥr al-muḥīt*, 5:492.

in a large number towards the same land and stayed there in peace until the Prophet, along with the rest of the Muslims, migrated from Mecca to Madina. In this connection, Almighty Allah revealed in *sūra al-ʿAnkabūt*:

﴿يَعِبَادِي الَّذِينَ ءَامَنُوا إِنَّ أَرْضِي وَاسِعَةٌ فَإِيَّايَ فَاعْبُدُونِ﴾

﴿O My servants who have believed! Surely, My earth is vast, so worship Me alone.﴾¹

Ibn Kathīr has interpreted this verse in the following way:

لَمَّا ضَاقَ عَلَى الْمُسْتَضْعِفِينَ بِمَكَّةَ مُقَامُهُمْ بِهَا، خَرَجُوا مُهَاجِرِينَ إِلَى أَرْضِ الْحَبَشَةِ، لِيَأْمَنُوا عَلَى دِينِهِمْ هُنَاكَ، فَوَجَدُوا هُنَاكَ خَيْرَ الْمَنْزِلَيْنِ. أَصْحَمَةُ النَّجَاشِيِّ مَلِكُ الْحَبَشَةِ، رَحِمَهُ اللَّهُ، أَوَاهُمْ وَأَيَّدَهُمْ بِنَصْرِهِ.

“When the land of Mecca became narrow upon the feeble and weak (companions of the Holy Prophet) and it was unbearable for them to live there, they immigrated to Abyssinia to save their *Dīn*. There they found Negus Aṣḥama, the King of Abyssinia, the best host who extended his full support to the immigrants, helped them and provided them with all the possible facilities.”²

12.10 THE HOLY PROPHET ﷺ DECLARED ABYSSINIA “THE LAND OF TRUTH”

As mentioned above, the Qurʾān declared Abyssinia as the best abode. Similarly, the Prophet had also affirmed it the land of peace and truth, knowing that the ruler of that country was a Christian.

According to Imam Ibn Ishāq, when the brutalities perpetrated by the Meccan disbelievers and polytheists exceeded limits and none of the strategies to protect the Muslims proved fruitful, the Prophet commanded the Companions to migrate to Abyssinia. The Prophetic command inherently confirms the evidence of the Christian land being

¹ Qurʾān 29:56.

² •Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, 6:290.

an abode of peace for the insecure Muslims of Mecca.

This is important to remember that this migration took place in the month of Rajab, after the 5th year of the pronouncement of Prophethood [*Nubuwwa*]. In the beginning, our master 'Uthmān b. 'Affān and his wife Ruqayya, the venerable daughter of the Prophet, along with 15 people, migrated. Later, when the Companions heard the news of peace and security in Abyssinia, many more Companions and their wives emigrated, raising the total number of immigrants to eighty two. This is known as the second migration to Abyssinia. The blessed words of the Holy Prophet addressed to the Companions at the time of migration are inspiring:

لَوْ خَرَجْتُمْ إِلَى أَرْضِ الْحَبَشَةِ، فَإِنَّ بِهَا مَلِكًا لَا يُظْلَمُ عِنْدَهُ أَحَدٌ، وَهِيَ أَرْضٌ صِدْقٍ، حَتَّى يَجْعَلَ اللَّهُ لَكُمْ فَرْجًا. فَخَرَجَ عِنْدَ ذَلِكَ الْمُسْلِمُونَ مِنْ أَصْحَابِ رَسُولِ اللَّهِ ﷺ إِلَى أَرْضِ الْحَبَشَةِ، مُحَافَةَ الْفِتْنَةِ وَفِرَارًا إِلَى اللَّهِ بِدِينِهِمْ، فَكَانَتْ أَوَّلَ هِجْرَةٍ كَانَتْ فِي الْإِسْلَامِ.

“(It is better) if you leave for Abyssinia until Allah makes a way out for you because the king of Abyssinia does not oppress or tyrannize people. That is a land of truth and righteousness. May Allah make it spacious for you!” Hearing this Prophetic command, many Companions left for Abyssinia to escape the sufferings and save their *Dīn*. This was the first ever emigration of the Muslims in the history of Islam.”¹

Imam al-Ṭabarī wrote exactly the same words about the land of Ethiopia (Abyssinia) and its King Negus in *Tārīkh al-Umam wa al-Mulūk*. According to him, the Holy Prophet ﷺ said:

فَإِنَّ بِهَا مَلِكًا لَا يُظْلَمُ عِنْدَهُ أَحَدٌ، وَهِيَ أَرْضٌ صِدْقٍ.

“This country is under the rule of a king who does not wrong anybody and this is a land of truth. (There you can secure

¹ • Ibn Hishām, *al-Sīra al-Nabawiyya*, 1:331.

your rights better.)”¹

Imam al-Dhahabī and Ibn Kathīr have narrated the same words in *Tārīkh al-Islām* (1:184) and *al-Bidāya wa al-nihāya* (3:55) respectively. Also, Ibn al-Athīr al-Jazarī and numerous other imams of hadith and history have reported the same narration in their books and treatises. Imam Badr al-Dīn al-‘Aynī too has related it in *Kitāb al-Jum‘a* of ‘*Umda al-qārī sharḥ Ṣaḥīḥ al-Bukhārī*.

12.10.1 THE NEGUS HAD YET TO KNOW ABOUT THE FINAL MESSENGER

While Abyssinia was chosen for the Muslims to migrate for the protection of their lives, Dīn and faith from the brutalities and atrocities inflicted upon them by the disbelievers and polytheists, the country was also pertinently labelled as a “safe haven” and the “land of truth”. It was a Christian land with the Negus, the Christian ruler, in the saddle; he had yet to receive the news of the raising of the Final Messenger. Despite that, the Prophet declared that country an abode of peace for the Muslims to practise their *Dīn* and honoured it with an exalting title: “The Land of Truth”. This was said before the king had accepted Islam. Imam Ibn Ishāq, Imam al-Ṭabarānī and Imam Ibn ‘Asākir narrate from the mother of believers, Umm Salama:

لَمَّا نَزَلْنَا أَرْضَ الْحَبَشَةِ جَاوَزْنَا بِهَا خَيْرَ جَارٍ النَّجَاشِيِّ، أَمَّا عَلَى دِينِنَا،
وَعَبَدْنَا اللَّهَ لَا نُؤَدِّي، وَلَا نَسْمَعُ شَيْئًا نَكْرَهُهُ.

“When we were with the Negus, we were in peace. As for our *Dīn*, we were free from all fears. So we worshipped Allah (in the free environment) well which we could not practise before. And we did not hear anything unpleasant there.”²

In like manner, Imam Ibn Ishāq, Imam Abū Nu‘aym and Imam Ibn ‘Asākir and āfiẓ Ibn Kathīr have narrated it from Ja‘far Ibn Abī Ṭālib in *al-Sīra*, *al-Dalā’il*, *al-Tārīkh* and *al-Bidāya wa al-nihāya*

¹ • Al-Ṭabarī, *Tārīkh al-umam wa al-mulūk*, 1:547.

² • Ibn Hishām, *al-Sīra al-Nabawiyya*, 1:341.

respectively that when the Negus heard of the virtues and teachings of the Final Messenger of Allah, he was in tears. Then he audaciously said in his court:

مَرْحَبًا بِكُمْ وَبِمَنْ جِئْتُمْ مِنْ عِنْدِهِ، أَشْهَدُ أَنَّهُ رَسُولُ اللَّهِ، وَأَنَّهُ الَّذِي نَجِدُ
فِي الْإِنْجِيلِ، وَأَنَّهُ الرَّسُولُ الَّذِي بَشَّرَ بِهِ عِيسَى ابْنُ مَرْيَمَ، إِنزِلُوا حَيْثُ
شِئْتُمْ، وَاللَّهُ، لَوْ لَا مَا أَنَا فِيهِ مِنَ الْمُلْكِ لَأَتَيْتُهُ حَتَّى أَكُونَ أَنَا الَّذِي أَهْلُ
نَعْلَيْهِ. وَأَمَرَ لَنَا بِطَعَامٍ وَكُسْوَةٍ. ثُمَّ قَالَ: اذْهَبُوا فَأَنْتُمْ آمِنُونَ. مَنْ سَبَّكُمْ
عُرِّمَ، مَنْ سَبَّكُمْ عُرِّمَ، مَنْ سَبَّكُمْ عُرِّمَ.

"I welcome you and the exalted personage from whom you have come to me. I bear witness that he is doubtlessly the true Messenger of Allah and he is certainly the same Prophet we have been reading about in the Bible about whom Jesus, son of Mary, gave the glad tidings. (O Muslims!) You can live here freely wherever you like. By God! Had I not been the ruler of this country, I would have submitted myself to his presence, until I had been given the opportunity to carry his shoes." The Negus then provided us with food and clothing and said: "Go! You will live in peace; whoever scolds you will be punished; whoever scolds you will be punished; whoever scolds you will be punished."¹

Against the backdrop of atrocities and brutalities of the tyrannous disbelievers and terrorist polytheists of Mecca, Abyssinia, the land of the People of the Book, is declared a Land of Truth, and its righteous Christian ruler is regarded as the protector of the *Dīn* of the Muslims. He is also proving the Prophet's words true by his compliant and conforming actions. Such an exceptional behaviour could never be expected from any tribe or state being run by extremist disbelievers and bigoted polytheists.

¹ •Yūsuf al-Ṣāliḥī, *Subul al-hudā wa al-rishād fī sīra khayr al-‘ibād*, chapter no thirteen, 2:391.

12.10.2 THE COMPANIONS' PRAISE FOR THE NEGUS AND HIS RULE

Imam Ibn Hishām and Ibn Kathīr have further narrated from Umm Salama, the mother of the believers, in *al-Sīra* and *al-Bidāya wa al-nihāya* respectively that she said:

“Some natives rebelled against the King Negus. By God! We never felt as perturbed as we did on that day, fearing that they might topple his government and take over the throne. In that case, it was likely that he would not recognize the rights of Muslims and not provide us protection the way the Negus was doing. The Negus’s army and his troops confronted the opposition and we started praying for the victory of the Negus and his government. Suddenly, Zubayr b. al-ʿAwām brought us the glad news that the Negus had been victorious and his enemy had been defeated. By God! We felt so glad that day as we had never felt before.”

Two sentences spoken by Umm Salama are of special significance:

١. فَجَعَلْنَا نَدْعُو اللَّهَ، وَنَسْتَنْصِرُهُ لِلنَّجَاشِيِّ.
٢. أَلَا، أَبَشِّرُوهُ، فَقَدْ أَظْهَرَ اللَّهُ النَّجَاشِيَّ، فَوَاللَّهِ، مَا عَلِمْنَا فَرَحًا بِشَيْءٍ قَطُّ فَرَحًا يَظْهَرُ النَّجَاشِيَّ.

1. “So we started praying for the Negus’s victory.”
2. “Beware! Rejoice! Allah has blessed the Negus with dominance. By God! We do not know if we have ever been so glad on any occasion as we were glad on the day of the Negus’s victory.”¹

12.10.3 ALLAH’S EXCELLENT REWARD FOR NEGUS’S EXCELLENT CONDUCT WITH THE MUSLIMS

The mother of the believers, ʿĀ’isha, reported in *Sunan Abī Dāwūd’s*

¹ •Ibn Ishāq, *al-Sīra al-Nabawiyya*, 1:250. •Ibn Hishām, *al-Sīra al-Nabawiyya*, 1:344–345. •Ibn Kathīr, *al-Bidāya wa al-nihāya*, 3:75.

Kitāb al-Jihād (the Book of Striving):

لَمَّا مَاتَ النَّجَاشِيُّ كُنَّا نَتَحَدَّثُ أَنَّهُ لَا يَزَالُ يُرَى عَلَى قَبْرِهِ نُورٌ.

“When the King Negus died, we used to say that there seemed to be always a shower of divine light on his grave.”¹

12.10.4 THE PROPHET’S EXCELLENT BESTOWAL FOR NEGUS’S BENEVOLENCE TOWARDS THE COMPANIONS

According to the chapters *al-Janā’iz* (the funeral rites) and *al-Manāqib* (virtues) of *al-Ṣaḥīḥ* of al-Bukhārī and Muslim:

“When the Negus died, the Prophet himself broke the news to the Companions and prayed over him.”²

According to the scholars, the Holy Prophet paid back his benevolence with a higher benevolence because there was no one to pray over him in Abyssinia.³

12.10.5 WHEN DID THE NEGUS EMBRACE ISLAM FORMALLY?

The Negus accepted Islam as a result of the letter written to him from the Holy Prophet during the Medinan period while he also wrote to the Caesar of Rome, the Iranian monarchs and the Egyptian rulers, inviting them to embrace Islam. According to Imam al-Zuhrī, all these letters were written simultaneously. The Negus, however, had been showing his generosity to the Muslims, and, expressing his love and affection to the Holy Prophet for more than a decade before, he

¹ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter: ‘The Light is Spotted near the Grave of a Martyr,’ 3:16 §2523.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-janā’iz* [The Book of Funeral Rites], chapter: ‘A Man Announcing Someone’s Death to the Dead Person’s Relatives,’ 1:420 §1188, and in *Kitāb al-manāqib* [The Book of Exemplary Virtues], chapter: ‘The Death of the Negus,’ 3:1407–1408 §§3664–3668. •Muslim in *al-Ṣaḥīḥ: Kitāb al-janā’iz* [The Book of Funeral Processions], chapter: “Saying ‘Allāh akbar’ (God is the Greatest) over the Dead Body”, 2:656.

³ •Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī*, 3:188.

entered the fold of Islam.

12.11 THE LOYALTY OF THE MUSLIM ABYSSINIAN REFUGEES TO ABYSSINIA AND ITS RELEVANCE TO THE MODERN WORLD

The emigration of the oppressed Muslims of Mecca to Abyssinia vividly depicts the nature of relations of the Muslims and non-Muslims. Ponder the model conduct and the teachings of the Messenger of Allah ﷺ when he ordered some of his Companions to migrate to the Christian state of Abyssinia under a Christian king. He directed his Companions ﷺ in these words:

According to Ibn Ishāq and al-Ṭabarī:

لَوْ خَرَجْتُمْ إِلَى أَرْضِ الْحَبَشَةِ، فَإِنَّ بِهَا مَلِكًا لَا يُظْلَمُ عِنْدَهُ أَحَدٌ، وَهِيَ أَرْضٌ صِدْقٌ.

“(It would be better) if you immigrate to the land of Abyssinia, for there is a king in whose presence no one is wronged. It is a land of truth and righteousness. (There you can secure your rights better.)”¹

This hadith shows how the Messenger of Allah ﷺ appreciated the peaceful and protective conduct of a Christian ruler and his Christian state. Concurrently, the loyalty of the Abyssinian refugees to the state of Abyssinia can be better appreciated by considering the help they offered to the king against the rebels when they rose against him and caused tribulation and mischief. The refugees residing in Abyssinia helped the king against the rebels by taking part in the administration of the state. Loyalty to the country of one's residence is not only the practice of the Companions, it is the noble command of Allah's Messenger ﷺ as well. That has also brought forth the reciprocity of the relations of Muslims and non-Muslims towards maintenance of peace and interfaith harmony in a multicultural society.

Islam orders both men and women to adopt the Sunna of Allah's

¹ Cited by •Ibn Hishām in *al-Sīra al-Nabawiyya*, 2:164. •al-Ṭabarī in *Tārīkh al-umam wa al-mulūk*, 1:547.

Messenger ﷺ and be loyal to their country, whether they are British, American, French, Italian, European, Danish, or a refugee or non-resident. Islam exhorts Muslims to always be supportive and helpful to society. Islam orders the Muslims to obey the law and strengthen the rule of law where they dwell, to find gainful employment, to earn a living, to get subsidies, to receive, social and economic benefits, pensions and medical support, where one can have the benefits of life, individuality, business, faith and religion, and the freedom of cultural and traditional values; where mosques can be built freely without restraint; where one can go for pilgrimage; where one can establish prayer and keep fasts; where one can call to prayer and broadcast Islamic channels—in short, where one can do anything he or she wants. Therefore, it is clear and self-evident that all these countries are like the Land of Islam (*Dār al-Islām*) and they are definitely categorized as Abode of Peace.

12.II.1 AN ANALYSIS OF HUMAN RIGHTS IN WESTERN AND SOME MUSLIM COUNTRIES (TOWARDS THE CATEGORIES OF ABODES)

If you conduct a realistic analysis of the human rights situation, you will find that the religious, communal, economic and social liberties and freedoms that the Muslims enjoy in Western countries are not accessible to them in their own Muslim, especially Arab countries. The Western World offers them all the benefits and liberties—social, political, religious, economic. Besides the freedom to establish educational institutions, Muslims in Western countries are also allowed to build mosques and Islamic centres. It is also possible to take the advantage of grants and other means. All of the benefits available to Muslims in these countries have been introduced by Islam. This society is the Abode of Islam and an Abode of Peace and Security. Therefore, any Muslim who accepts the teachings of the Messenger of Islam wholeheartedly does not have any right to take up a “private jihad” or fight in any part of the world. The abode of peace model of Abyssinia provides sufficient guidance to take the bearing on our way to global peace and harmony.

12.11.2 THE MESSAGE OF ISLAM—THE ESTABLISHMENT OF A GLOBAL HUMAN SOCIETY

The message of Islam is clear regarding global peace and mutual fairness. Islam is the foremost promoter and propagator of peace, justice and equality. Hence, we are to unite against extremism and religious fanaticism and root out terrorism. This is the time for every Muslim to become an embodiment of peace and harmony, love and affection. A Muslim is peace incarnate. He is to rise with the message of Allah's Messenger, which is a message of global peace.

At this juncture, we are to establish, according to the teachings of the Messenger of Islam, a global human society premised on peaceful co-existence—a society where we may live with peace, love, tolerance, mutual respect, honour and dignity, and where there shall be nobility, reverence and security for religion. The message dictates tolerance, moderation, human dignity, honouring freedoms and liberties for the development and prosperity of human society on the planet. We are to alleviate poverty, ignorance, bigotry and extremism and all forms of hatred and terrorism from the world to make it a safe haven for the future generations. That is the only way to establish equality, justice and rule of law and eliminate oppression, coercion and corruption from the surface of the earth.

12.12 AFTERWORD

Respected readers! Peering into the shadows of words spread over the preceding pages, the truth has been demystified that Islam unequivocally teaches to promote sentiments of love and affection, sympathy and compassion, courtesy and proprieties. Being a Din of peace and security its call overwhelms the whole of humanity—all its socio-economic strata, ethnic layers and political divisions. Whatever religion or community one belongs to, the worldly well-being and otherworldly triumph of all humans form the basic elements of Islamic teachings. Against this backdrop should be appreciated the peculiar rulings pertaining to the People of the Book and the principles of permissibility and justification in several matters with the intention to develop trust and nearness and amity as desired by the divine prudence. Only this way will they revisit the rest of their creeds and

beliefs. The Prophet's relations with the Jews of Medina and the treaties and contracts with them for smooth sailing in individual, economic, political, diplomatic affairs were the practical manifestation of the sentiments of well-wishing, mutual cooperation and coexistence.

Islamic history is replete with these sentiments of love and regard, well-wishing and peaceful coexistence. The western historians even today forthrightly confess that the People of the Book were better protected and more peaceful in the Islamic state than in Europe during crusades. That relates to the era of Islamic political and cultural dominance over the world. The modern world is a total contradiction. The Muslims have been undergoing a fall for last over three centuries. A large number of Muslims have settled in non-Muslim communities, societies and civilizations as minorities. The Muslim governments are engaged in diverse interactions with the non-Muslim states while this exercise vastly transpires at individual levels. If the Muslims demonstrate hatred and spite towards the non-Muslims, they will face the worse reaction from the opposite side.

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This book focuses on dealing with questions and concerns regarding long-term and sustainable peaceful relations between Muslims and non-Muslims, in both Muslim majority countries and also western countries where Muslims live as minorities.

The book is divided into two sections. The first section discusses individual and community relations, providing ample evidences for very important aspects in this regard. Muslims in their treatment of non-Muslims, bas a rule, are to ensure that all non-Muslims are secure in their lives and in their belongings. The book further illustrates how Muslims are to treat non-Muslims with piety and excellent social morality, and not as second class citizens or inferior beings.

The second section of the book discusses the categories of abodes, making this work one of geopolitical relevance. Shaykh-ul-Islam Dr Muhammad Tahir-ul-Qadri provides evidences and nuanced interpretations of the concepts "The Abode of Islam, The Abode of Reconciliation, The Abode of Treaty, The Abode of Peace, and The Abode of War." Clear definitions of these categories are offered, along with how different countries can and cannot be classified in each of these categories.

This book presents a high standard of Islamic scholarship for Muslims and non-Muslims alike. Members of diverse communities may benefit by comparing their own viewpoints, perspectives, understandings, and opinions with this important work of an authentic scholarly standard.

